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AND
ADMINISTRATION

ANNUAL CONTINUATION VOLUME, 1944

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EDITED BY

A. N. C. SHELLEY, ESQ., M.A., B.C.L. (Oxon)

OF LINCOLN'S INN, BARRISTER-AT-LAW

AND

D. J. BEATTIE, ESQ., LL.M.

SOLICITOR OF THE SUPREME COURT
TOWN CLERK OF PENZANCE

LONDON

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THE ENGLISH AND EMPIRE DIGEST

In addition to the usual citation of the reports of cases in the footnotes, there will be found a reference to the volume, page, and case number at which the case appears in the Digest. Thus:

Bennett v. Stepney Borough Council (1912), 107 L.T. 383 ;
38 Digest 101, 730.

HALSBURY'S COMPLETE STATUTES OF ENGLAND

References to Public Acts of Parliament are followed by a reference to the volume and page at which the Act or section of the Act appears in Halsbury's Complete Statutes of England. Thus:

The Local Government Act, 1933 ; 26 Halsbury's Statutes
295.

ALL ENGLAND LAW REPORTS

After cases heard since February, 1936, references are given to this series of reports thus:

Camkin v. Bishop, [1941] 2 All E. R. 713.

PUBLISHERS' NOTE

THIS volume contains the relevant Statutes, Orders, Circulars and Memoranda, Cases and Decisions of the year 1944. The same classification of titles has been followed as in the first continuation volume (Vol. 15), the emergency legislation being dealt with under the various titles.

During 1944 several Statutes were passed which are of considerable importance to local authorities. The Town and Country Planning Act, 1944, is of particular importance, and so, too, are the Food and Drugs (Milk and Dairies) Act, 1944, the Housing (Temporary Accommodation) Act, 1944, the Housing (Temporary Provisions) Act, 1944, and the Rural Water Supplies and Sewerage Act, 1944.

Various Defence (General) Regulations, 1939, have been revoked or amended, and while it is impossible in this volume to include all the emergency legislation, it is hoped that all those Orders made during 1944 which are of general importance have been included.

In particular, attention may be drawn to the Food Standards (General Provisions) Order, 1944, and to the other Orders which will be found on pp. 142 *et seq.* prescribing the standards for particular foods. The Town and Country Planning Additional Regulations, 1944 (p. 379) and the Town and Country Planning (Development by Authorities) Regulations, 1944 (p. 382) are also of importance.

BUTTERWORTH & Co. (Publishers), LTD.

September, 1945.

LIST OF ABBREVIATIONS

All England Reports	All E.R.
Attorney-General	A.-G.
Brothers	Bros.
Company	Co.
Corporation	Corp'n.
Home Office	H.O.
Justices	JJ.
Limited	Ltd.
London County Council	L.C.C.
Local Government Act	L.G.A.
Medical Officer of Health	M.O.H.
Ministry of Agriculture and Fisheries	M. of A.
Ministry of Health	M. of H.
Ministry of Transport	M. of T.
Public Health Acts	P.H.A.
Railway Company	Rail. Co.
Rating and Valuation Act	R. & V.A.
Rural District Council	R.D.C.
Statutory Rules and Orders	S. R. & O.
Urban District Council	U.D.C.

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CASES

Contract—Impossibility of performance—Supply of electricity for public lighting—Black-out—Contract containing composite provision for supply of current and other services—Provision for abatement in certain events, and “from any other unavoidable cause over which the company has no control.”

Under three contracts, the appellant company agreed to supply electricity to the respondent council for street lighting purposes and to undertake various duties in connection with the street lighting system. The appellant company was paid for these services quarterly at a fixed rate. The contracts provided that in the event of a failure of supply due to any “unavoidable cause” over which the appellant company had no control the payments were to abate in the same proportion as the supply was curtailed. By the Lighting (Restrictions) Order, 1939, the display of lights in the streets was made unlawful from September 1, 1939, and the respondent council thereupon ceased to consume the greater proportion of the current hitherto supplied by the appellant company. The appellant company continued to perform its duties under the contracts as respects the maintenance of the lighting system and was ready to put it into full operation at short notice. In the action, the appellant company sought to recover the quarterly payments due under the contracts, but the respondent council contended that the terms of the contract entitled them to an abatement in the price :—

Held : the inability of the company to light the lamps was due to an unavoidable cause within the meaning of the force majeure clause in the contract and the liability of the council to pay was suspended.

Decisions of the Court of Appeal ([1942] 2 All E. R. 154) *affirmed*.—EGHAM AND STAINES ELECTRICITY CO., LTD. v. EGHAM URBAN DISTRICT COUNCIL, [1944] 1 All E. R. 107 ; 170 L. T. 102 ; 108 J. P. 56 ; 60 T. L. R. 141 ; 88 Sol. Jo. 34 ; 42 L. G. R. 1, H. L. [1]

Negligence—Children—Allurement—Electric cable placed on ground—Child electrocuted while playing in air-raid shelter—Licensee or trespasser.

The defendants were the local authority responsible for the erection and maintenance of an air-raid shelter on a public green. In order to prevent damage to the shelter by children or mischievous persons, the entrance was enclosed by a wooden palisade with a door, the handle of which was protected by a case with a glass front. A boy aged eleven was electrocuted inside the entrance to the shelter through interfering with an electric cable connected with ventilating fans inside the shelter. The cable was properly insulated but was laid out on the surface of the ground. The accident had occurred owing to the boy cutting the cable, apparently with a pair of pliers. On the day of the accident the glass over the handle of the door leading to the shelter

was broken as there had been an air-raid on the previous night and it had not been possible to replace the glass that day. It was contended on behalf of the plaintiff, the father of the boy, that the defendants were guilty of negligence in that they had placed a dangerous object on a public green which was used as a children's playground, that it was an allurements to children and that they had failed to take proper precautions to protect children. There was evidence that children found playing in the shelter had constantly been turned away :—

Held : there was ample evidence to show that, in going inside the palisade the child was a trespasser, and the defendants had, therefore, no duty towards him, and the plaintiff had no cause of action against them.—*WALDER v. HAMMERSMITH BOROUGH COUNCIL*, [1944] 1 All E. R. 490; 108 J. P. 224; 42 L. G. R. 183. [2]

Local Government—Remuneration of employees—Children's allowances—Fair and reasonable—Discretion of local authority—Local Government Act, 1933 (c. 51), ss. 106, 228, 229, 230.

After a meeting with their staff representatives and after inquiring into the practice of other employers, the Birmingham Corporation decided to contribute towards the increased cost of living expenses of their non-manual employees by paying a fixed weekly rate of war bonus according to age or sex with the addition of 2s. 6d. per week for each child in the case of married men, widowers or widows. These latter payments were called children's allowances. The district auditor disallowed the children's allowances as (i) unlawful since they were not "remuneration or salaries," or (ii) unreasonable since they had no relation to the value of the services rendered :—

Held : the payment of such children's allowances was within the statutory powers of the local authority provided that the total amount of remuneration was fair and reasonable.

Decision of Divisional Court affirmed.—Re WALKER'S DECISION, [1944] K. B. 644; [1944] 1 All E. R. 614; 108 J. P. 215, C. A. [3]

Public Authorities—Limitation of actions—What bodies protected—Governors of grammar school—Pupil slipping on worn step on snowy day—Infancy of plaintiff—Endowed Schools Act, 1869 (c. 56), s. 45—Public Authorities Protection Act, 1893 (c. 61), s. 1—Limitation Act, 1939 (c. 21), s. 21—Education—Grammar school—Negligence of cleaner—Liability—Governors—Public authority—Limitation of time—Infancy—Endowed Schools Act, 1869 (c. 59), s. 45—Public Authorities Protection Act, 1893 (c. 61), s. 1—Limitation Act, 1939 (c. 21), s. 21.

The infant plaintiff was a pupil at the Hastings Grammar School. The school was an endowed secondary school under the terms of a scheme sealed by the Board of Education in 1910 under the Endowed Schools Acts, 1869—1889. The governing body consisted of fourteen governors of whom eight were appointed by a public authority; the Mayor of Hastings and the chairman of the Education Committee of the borough were *ex-officio* governors. Owing to the war the school was removed in July, 1940, to St. Albans and accommodated on premises belonging to the Congregational Church. In January, 1942, the steps to the door of the school were covered with frozen snow over which was a layer of loose snow. The caretaker, who usually did the cleaning for the Congregational Church, swept the loose snow but did not remove the frozen snow. No ashes or sand were placed on the frozen snow and no warning of its danger given. The steps were also badly worn and sloped steeply down. While going out on the instructions of his teacher, the infant plaintiff slipped on the steps and sustained severe injuries. The plaintiff claimed damages against the defendants for negligence. The defendants pleaded that the claim was barred by the Limitation Act, 1939, s. 21 :—

Held : (1) although the governors of the school were administering a

charitable trust in the public interest, that did not make them a public authority, or their work a "public duty" within the meaning of the Limitation Act, 1939, s. 21. The fact that grants might have been made to the school out of public funds could not convert the recipients into a public authority.—

Greenwood v. Atherton, [1939] 1 K. B. 388, *distinguished*.

(ii) Even if the caretaker who did the cleaning of the school premises was not the servant of the defendants, or was an independent contractor, the defendants were liable for negligence on the ground that the caretaker had been entrusted with the performance of a duty incumbent upon the defendants.

Pickard v. Smith (1861), 10 C. B. N. S. 470, and *Wilkinson v. Rea, Ltd.*, [1941] 1 K. B. 688, *applied*.

Decision of HALLETT, J. ([1944] 2 All E. R. 119), *reversed*.—*WOODWARD v. HASTINGS CORPN.*, [1945] K. B. 174; [1944] 2 All E. R. 565; 172 L. T. 16; 61 T. L. R. 94, C. A. [4]

Town and Country Planning—Interim Development—Application to develop—Interest of applicant—Notice of refusal—Business not specified in summons—Town and Country Planning Act, 1932, s. 10 (3)—Local Government Act, 1933, Sched. III.

By the Town and Country Planning Act, 1932, s. 10 (3): "Where an application for permission to develop land is made to the specified authority in manner provided by the [interim development] order, the authority may, subject to the terms of the order, grant the application unconditionally or subject to such conditions as they think proper to impose, or may refuse the application, and they shall be deemed to have granted the application unconditionally unless within two months from the receipt thereof . . . they give notice to [the applicant] that they have decided to contrary, stating their reasons for so doing."

The plaintiff, a builder, applied under s. 10 (3) for permission to develop three plots of land. He had no interest, present or prospective, in the land, and made the application merely as agent or representative of some other person. Within two months of the application notices were served on the plaintiff by the defendant council that his applications were refused. The plaintiff alleged that these notices were bad, *inter alia*, on the ground that the summons to the meeting of the council at which the resolution was passed refusing his application contained no mention of his application. The Local Government Act, 1933, Sched. III, by Parts I and II, which deal with the meetings of county and borough councils, provides that the summons to attend a meeting shall specify the business to be transacted thereat, and, further, that "no business shall be transacted at a meeting of the council other than that specified in the summons thereto." Parts III and IV of the schedule which deal with the meetings of urban and rural district councils and parish councils, while containing similar provisions requiring the business to be transacted at the meeting to be specified in the summons, contain no provisions prohibiting the transaction of other business:—

Held: (1) that assuming the plaintiff was competent to make an application under s. 10 (3), which was doubtful as he had no interest in the land, he was not entitled, in the complete absence of such an interest, to come to the court for declaratory relief; (2) that a prohibition on the transaction of any business other than that specified in the summons to the council applied to urban and rural district councils and parish councils notwithstanding the omission of any express prohibition from Parts III and IV of the Sched. III to the Act of 1933, although not with the same strictness as in the case of county and borough councils.

On the facts of the present case sufficient notice of intention to deal with

the plaintiff's application had been given in the summons to the meeting, but if such notice had not been given, *quære* whether the plaintiff was entitled to question the validity of the council's proceedings on the ground of any omission from the agenda.—*AYLES v. ROMSEY AND STOCKBRIDGE RURAL DISTRICT COUNCIL* (1944), 108 J. P. 175. [5]

AGRICULTURE

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STATUTES

THE AGRICULTURE (MISCELLANEOUS PROVISIONS) ACT, 1944

(7 & 8 Geo. 6, c. 28)

PRELIMINARY NOTE

This Act, which received the Royal Assent on July 27, 1944, is the fifth miscellaneous provisions Act relating to agriculture passed during the present war. It makes, however, two major permanent changes, viz. (i) it provides for the establishment of a National Agricultural Advisory Service (s. 1), and (ii) it increases the resources of, and makes certain changes in regard to, the Agricultural Mortgage Corporation established by the Agricultural Credits Act, 1928 (s. 2) (1 Halsbury's Statutes 170). The minor matters with which the Act deals relate to the fixing of minimum time rates of wages for agricultural workers engaged on piece-work (s. 3), the extension of the period during which exchequer contributions for the purchase of lime will be made (s. 4), the supply of water to farm houses and cottages (s. 5), the extension of the provisions relating to the licensing of bulls to boars (s. 6), and the extension by one year of the time within which the expenses of drainage works, or of improving ways over fenland may be recovered (s. 7).

In April, 1943, the Luxmoore Committee on Post-War Agricultural Education presented its report (Cmd. 6433). Its terms of reference were to examine the present system of Agricultural Education in England and Wales and to make recommendations for improving and developing it after the war. Apart from recommendations dealing generally with elementary and secondary education, which might more properly be considered in relation to the Education Act, 1944, than to the present Act, the Committee made two administrative recommendations, viz. (i) that farm institute education should be taken away from local authorities and transferred to a National Council for Agricultural Education, and (ii) that there should be a National Advisory Service, also under the control of the National Council, and that in connection with this there should be a regrouping of districts into provinces for the purpose of this service, and a reduction in the number of provinces from thirteen to six.

The Government did not accept the first of these recommendations but have accepted the second to a modified extent by setting up, by s. 1 of the present Act, a National Agricultural Advisory Service under the central control of the Ministry in place of the general advisory service previously administered by the County Councils and the specialist advisory services run by the University Department of Agriculture and by the various agricultural colleges.

Ss. 5 and 7, *post*, which deal respectively with the supply of water to farm houses and cottages, and the extension of time for the recovery of expenses of drainage works or of improving ways over fenland are also of concern to local authorities. [6]

An Act to provide for the establishment of a National Agricultural Advisory Service, and for increasing the resources of the Agricultural Mortgage Corporation and the Scottish Agricultural Securities Corporation, and otherwise to amend the law relating to agriculture and matters connected therewith. [7] [27th July, 1944.]

* * * * *

1. National Agricultural Advisory Service.—(1) The Minister of Agriculture and Fisheries (hereafter in this Act referred to as “the Minister”) shall, as from the appointed day, establish and maintain a National Agricultural Advisory Service for giving free of charge technical advice and instruction, whether practical or scientific, on agricultural matters, and may appoint for that purpose such officers and other staff as he may with the approval of the Treasury determine. [8]

(2) As from the day fixed for the purposes of this subsection, there shall be transferred and attached to the Ministry of Agriculture and Fisheries all such persons as have made an application in that behalf in such manner and within such time as may be prescribed by regulations made by the Minister, being persons who were on the twenty-third day of August, nineteen hundred and thirty-nine, employed in a whole-time capacity either—

- (a) by the council of any county wholly or mainly on or in connection with the giving of advice or education on agricultural matters; or
- (b) at any university or agricultural college on or in connection with the giving of specialist advice on agricultural matters other than agricultural economics;

and who between then and the date of their application have been continuously employed as aforesaid or, while not so employed, have been engaged in a whole-time capacity in war service or partly engaged in war service and partly employed as mentioned in paragraph (a) or (b) of this subsection:

Provided that, where the Minister receives an application under this subsection from an officer or servant of a county council, or a person engaged in war service who ceased to be such an officer or servant in order to undertake such service, he shall inform the council of the receipt of the application, and, if on representations made to him within one month thereafter he is satisfied that the applicant's services should be retained by the council in order to enable the council to discharge their functions in connection with agricultural education, the applicant shall not be transferred under this subsection.

The day fixed for the purposes of this subsection shall be the appointed day or such earlier day as the Minister may fix in any particular case or, in the case of persons engaged in war service on the appointed day, such later day as the Minister may fix in any particular case. [9]

(3) There shall be paid to persons appointed or transferred under this section such salaries or remuneration as the Minister may, with the approval of the Treasury, determine. [10]

(4) Part I of the Schedule to this Act have effect with respect to the compensation of officers and servants of county councils who are not entitled to be transferred to the Ministry of Agriculture and Fisheries on an application made for the purpose under subsection (2) of this section, and Part II of that Schedule shall have effect with respect to the superannuation benefits of persons transferred under that subsection who are or have been officers or servants of county councils. [11]

(5) The expenses of the Minister under this section (including the salaries and other remuneration payable to persons appointed or transferred under this section) shall be defrayed out of moneys provided by Parliament. [12]

(6) In this section the following expressions have the meanings hereby respectively assigned to them :—

“ agriculture ” includes dairy farming, livestock breeding, poultry farming, bee keeping, fruit growing, vegetable growing and horticulture ; and the expression “ agricultural ” shall be construed accordingly ;

“ appointed day ” means such day as may be appointed by order of the Minister ;

“ war service ” means service in His Majesty’s forces and any employment which the Minister considers may properly be treated for the purposes of subsection (2) of this section in the same manner as service in those forces. [13]

This section enables the Minister to establish and maintain a National Agricultural Service and makes provision for the transfer of persons employed by county councils and at universities and agricultural colleges in connection with the giving of advice or education on agricultural matters.

The Service is to be brought into operation after the end of the war in Europe, and the scheme of transfer of employees is as follows :—

- (i) The Minister will fix a day for the purposes of sub-s. (2) ;
- (ii) The Minister will make Regulations prescribing in what manner and within what time persons entitled to be transferred may make an application for transfer ;
- (iii) Only persons who make application for transfer will be transferred, and the date of transfer will be the day fixed for the purposes of sub-s. (2) ;
- (iv) In the case of county council officers or servants, the Minister must inform the County Council of the receipt of the application for transfer, and if on representation made to him within one month thereafter he is satisfied that the applicant’s services should be retained by the Council in order to enable it to discharge its functions in connection with agricultural education the applicant will not be transferred ;
- (v) The provisions of Part II of the Schedule to the Act apply with respect to the superannuation benefits of former officers or servants of County Councils who have been transferred to the Ministry.

No provision is made in the Act conferring on transferred persons a right to a comparable rate of salary. The Minister’s intention, however, is that no officer transferred shall enter the service at a lower rate of salary than that which he is receiving at the date of transfer. In stating this during the Second Reading debate on the Bill in the House of Commons, the Minister indicated that he expected to be consulted by any County Council on any contemplated increases of pay of officers affected by the transfer provisions.

Persons entitled to apply for transfer are those :—

- (i) who were on August 23, 1939, employed in a whole-time capacity (a) by a County Council on or in connection with the giving of advice or education on agricultural matters, or (b) at any university or agricultural college on or in connection with the giving of specialist advice on agricultural matters other than agricultural economics ; and
- (ii) who have either been continuously so employed between August 23, 1939, and the date of their application for transfer, or while not so employed have been wholly employed in war service as defined by sub-s. (6), *ante*, or partly engaged in war service and partly employed as in (i), *ante*.

Sub-s. (4), *ante*, and Part I of the Schedule to the Act, *post*, make provisions for the compensation of officers and servants of County Councils who are not entitled to be transferred on the appointed day, and whose positions cease to exist or whose remuneration is diminished. The provisions of Sched. IV of the Local Government Act, 1933 (26 Halsbury’s Statutes 504), as to the determination and payment of compensation apply to claims under the section ; see Part I, para. 3 of the Schedule to the present Act, *post*. The superannuation of transferred officers of County Councils is dealt with in sub-s. (4) and Part II of the Schedule.

* * * * *

5. Supply of water to farm houses and cottages.—(1) Where water is supplied or proposed to be supplied to any agricultural land, whether under a scheme under subsection (1) of section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, or otherwise, and a scheme for extending the said supply so as to supply water for domestic purposes to dwelling houses occupied or usually occupied in connection with, or by persons employed in connection with, that land or any other agricultural land—

- (a) has been submitted by the owner or occupier of each of the houses to the War Agricultural Executive Committee of the county or county borough in which the houses are situated ; and

(b) has been approved for the purposes of this section by that Committee ; the Minister may out of moneys provided by Parliament make, towards expenditure incurred by any person in carrying out the scheme for extending the said supply, grants of such amounts and subject to such conditions as the Treasury may approve :

Provided that no grant shall be made under this section if the Minister is satisfied that the scheme is not likely to be of practical and lasting utility having regard in particular to the situation of the houses in relation to any water mains maintained by statutory water undertakers and any probable extension of those mains. [14]

(2) The reference in this subsection to subsection (1) of section fifteen of the Agriculture (Miscellaneous War Provisions) Act, 1940, shall be construed as a reference to that subsection as amended by section one of the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940, and by section three of the Agriculture (Miscellaneous Provisions) Act, 1941. [15]

S. 15 (1) of the Agriculture (Miscellaneous War Provisions) Act, 1940 (as substituted by s. 1 of the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940) enabled the Minister to make grants to assist any type of field drainage, whilst s. 3 of the Agriculture (Miscellaneous Provisions) Act, 1941, further amended s. 15 (1) so as to enable grants to be made to assist schemes for the supply of water to agricultural land. The present section still further extends the power of making grants to schemes for supplying water for domestic purposes to farm houses and farm cottages.

The Rural Water Supplies and Sewerage Act, 1944, provides facilities for the expansion of public supplies of water by water undertakings in rural areas, while the present section deals with independent supplies and thus supplements that Act to meet cases where the former Act provides no, or only a partial, solution.

* * * * *

7. Extension of time for recovery of expenses of drainage works or of improving ways over fen-land.—(1) The following enactments (which enable expenses incurred under the authority of the Minister in the execution of drainage works or in the improvement of ways over fen-lands to be recovered from owners of land upon whom notice is served within one year from the completion of the work), that is to say—

- (a) subsection (2) of section two of the Agriculture (Miscellaneous War Provisions) (No. 2) Act, 1940 ; and
- (b) paragraph 1 of the Third Schedule to the Agriculture (Miscellaneous Provisions) Act, 1941 ;

shall have effect as if for the words “one year” there were in each case substituted the words “two years”. [16]

(2) The foregoing provisions of this section shall apply in relation to expenses incurred before the date of the commencement of this Act notwithstanding that the work was completed more than one year before that date.

Provided that—

- (a) any notice served by virtue of this subsection, and any charge imposed by virtue of any such notice on the land specified therein, shall be void as against a purchaser of the land in pursuance of an agreement entered into more than one year after the completion of the work and before the first day of May, nineteen hundred and forty-four, or any person claiming through or under such a purchaser, or any agent for any such purchaser or person, unless the notice is served before the completion of the purchase ; and
- (b) subsection (2) of section seven of the Agriculture (Miscellaneous Provisions) Act, 1941, and, so far as it applies that subsection, subsection (2) of section eight of that Act (which authorise an owner of fen-land from whom any sum is recoverable in respect of expenses incurred in connection with the improvement of a way over the land to recover interest on that sum from the tenant

of the land) shall not authorise the recovery from a tenant of interest on any sum recoverable from the owner by reason of a notice served by virtue of this subsection, if the tenancy was created in pursuance of an agreement entered into more than one year after the completion of the work and before the first day of May, nineteen hundred and forty-four.

In this subsection the expression "purchaser" means, in relation to any land, any person (including a mortgagee or lessee) who, whether before or after the commencement of this Act, acquires for money or money's worth any interest in that land or in a charge on that land. [17]

(3) The provisions of the last foregoing subsection shall not be taken to affect the operation as to any charge imposed as aforesaid of the Land Charges Act, 1925 (which provides among other things that certain charges shall be void as against a purchaser unless registered in accordance with that Act). [18]

The section extends from one year to two years the period within which notice requiring repayment may be given where work of the types stated has been carried out under the authority of the Minister under s. 2 (2) of the Agriculture (Miscellaneous Provisions) (No. 2) Act, 1940, or ss. 7 and 8 of the Agriculture (Miscellaneous Provisions) Act, 1941.

10. Short title.—This Act may be cited as the Agriculture (Miscellaneous Provisions) Act, 1944. [19]

SCHEDULE

COMPENSATION AND SUPERANNUATION BENEFITS OF OFFICERS

PART I

Compensation of displaced officers

1. If, in consequence of the passing of section one of this Act or of anything done in pursuance thereof, any person, not being a person entitled to be transferred to the Ministry of Agriculture and Fisheries under subsection (2) of that section on an application made for the purpose, but being a person who—

- (a) was on the appointed day an officer or servant of a county council employed by that council in a whole-time capacity wholly or mainly on or in connection with the giving of advice or education on agricultural matters; and
- (b) had, between the twenty-third day of August, nineteen hundred and thirty-nine and the appointed day, been continuously employed in a whole-time capacity in local government service, or, while not so employed, been engaged in a whole-time capacity in war service or partly engaged in war service and partly employed in local government service;

suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall be entitled to recover compensation for his loss from that county council:

Provided that no person shall, by virtue of this Part of this Schedule, be entitled to recover compensation for any loss if provision is made for compensating him for that loss by or under any other enactment which is for the time being in force.

2. For the purpose of this Part of this Schedule, any such person as aforesaid—

- (a) who, at any time during the period of five years from the appointed day, relinquishes his office by reason of his having been required to perform duties which are not analogous, or which are an unreasonable addition to, those which he was required to perform immediately before that day; or
- (b) whose appointment is determined or whose emoluments are reduced during the period aforesaid because his services are not required or his duties are diminished (no misconduct being established);

shall be deemed unless the contrary is shown to have suffered direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments in consequence of the passing of section one of this Act or of something done in pursuance thereof.

3. The provisions of the Fourth Schedule to the Local Government Act, 1933, shall have effect in relation to claims for compensation under this Part of this Schedule subject to the following modifications, that is to say :—

- (a) references in the said Fourth Schedule to a scheme or order shall be construed as references to this Act ; and
 - (b) any period during which a person has been engaged in war service shall be reckoned for the purposes of the said Fourth Schedule as a period of service in his office as therein defined and, where any such period is so reckoned, his emoluments during that period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule, be deemed to be such as he would have received if he had not been engaged in war service.
4. In this Part of this Schedule—
- (a) the expression “ the appointed day ” has the same meaning as in section one of this Act ;
 - (b) the expression “ emoluments ” has the same meaning as in the Local Government Act, 1933 ;
 - (c) the expression “ local government service ” means service under a local authority within the meaning of the Local Government Act, 1933, or the London Government Act, 1939, or the Common Council of the City of London ;
 - (d) the expression “ war service ” has the same meaning as in section one of this Act.

PART II

Superannuation

1. Where a pensionable officer of a county council becomes a civil servant in consequence of his transfer to the Ministry of Agriculture and Fisheries under subsection (2) of section one of this Act, then—

- (a) that council shall, within three months after his becoming a civil servant, give to the Minister full information as to his previous service, the amount of his emoluments which will be pensionable emoluments for the purpose of the rules made under section nine of the Superannuation Act, 1935 (which relates to the superannuation of transferred officers), and the amount of the superannuation allowance which he may become entitled to receive from the council ; and
- (b) if the said rules do not already apply to the council, those rules shall nevertheless apply in relation to him as if the Treasury, upon the application of the council, had directed that the rules should apply to the council.

2. Where a person, not being a pensionable officer of a county council, becomes a civil servant in consequence of his transfer to the Ministry of Agriculture and Fisheries under subsection (2) of section one of this Act, having been, within three months before he became a civil servant, a person in respect of whom a county council was required or authorised to pay contributions for superannuation purposes under section four of the Local Government Staffs (War Service) Act, 1939, then—

- (a) the rules made under the said section nine shall apply in relation to him as if he had been a pensionable officer of that council immediately before he became a civil servant ; and
- (b) sub-paragraphs (a) and (b) of paragraph 1 of this Part of this Schedule shall apply in relation to him and in relation to that council as they apply for the purposes of that paragraph.

3. In this Part of this Schedule—

- (a) the expression “ pensionable officer ”, in relation to a council, means an officer or servant of that council who is a pensionable officer or servant of the council within the meaning of section nine of the Superannuation Act, 1935 ;
- (b) the expression “ civil servant ” has the meaning assigned to it by section twelve of the Superannuation Act, 1887. [20]

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION 30 OF THE DEFENCE (AGRICULTURE AND FISHERIES) REGULATIONS, 1939

S. R. & O., 1944, No. 327

March 24, 1944

In Regulation thirty of the Defence (Agriculture and Fisheries) Regulations, 1939 (which prescribes conditions for the employment of children in agricultural work) after paragraph (3) there shall be inserted the following paragraphs :—

“(3A) A child shall not be employed in any agricultural work involving heavy strain, and in particular shall not be employed in extracting sugar beet crops from the ground.

(3B) No child shall be employed in any agricultural work under the control of a gang-master as defined by the Agricultural Gangs Act, 1867.”

[21]

* * * *

THE AGRICULTURAL GANGMASTERS (REGISTRATION AND CONTROL) ORDER, 1944

S. R. & O., 1944, No. 635

May 30, 1944

In pursuance of Regulation 55 of the Defence (General) Regulations, 1939, the Minister of Agriculture and Fisheries hereby makes the following Order :—

1. In this Order “gangmaster” means any person, whether male or female, who hires other persons with a view to their being used in agricultural labour on land not in his own occupation; and, until the contrary is proved, any persons used in agricultural labour on land not in the occupation of the person who hired them shall be deemed to have been hired with the aforesaid view.

Committee means the persons, who for the time being are appointed by the Minister of Agriculture and Fisheries as members of the War Agricultural Executive Committee for an administrative county in England or Wales.

[22]

2. No gangmaster shall after the thirtieth day of June, 1944, do or enter into any contract to do any work on any land in any County for any other person unless—

- (i) he is registered with the Committee for that County;
- (ii) he has given to such Committee such particulars of the areas in which he normally does or proposes to do work, of the number and strength of the gangs in his employment, of the nature, type or kind of work which he proposes or is prepared to do, and of the person, for whom he has contracted or proposes to contract to do works as the Committee may require and notifies to the Committee from time to time any changes thereof or therein; and
- (iii) he complies with such directions as may be given to him from time to time by such Committee as to the place within the County where, and the time when, any gang employed by him is to be used, the nature of the work for which it is to be used, and the person for whom the work is to be done. [23]

3. If as regards any county or part of a county an agreement has been reached between representatives of the National Farmers' Union, and either the National Union of Agricultural Workers or the Transport and General Workers' Union or both as to the piece work rates for agricultural work in that district, the Committee may direct that the charge to be made by a gangmaster for any work shall be the cost of the labour as determined in accordance with the provisions of that agreement together with such additional sums for the cost of transport and supervision provided by the gangmaster as the Committee may, with the approval of the Minister, determine, and as regards any county or part of a county where no such agreement has been reached the Committee may subject to the approval of the Minister determine the charge to be made by a gangmaster and such determination may be made either by a general direction relating to all gangmasters or all work or by a special direction relating to the gangmaster or work specified therein. [24]

4. Where any direction such as is mentioned in Article 3 of this Order has been given no gangmaster shall make any charge in excess of the charge as so calculated, and no gangmaster shall enter or offer to enter into any fictitious or artificial transaction in relation to any contract to do work. [25]

5. This Order may be cited as the Agricultural Gangmasters (Registration and Control) Order, 1944. [26]

* * * * *

Note as to S. R. & O., 1944, No. 635.—*This Order enables War Agricultural Executive Committees to control, in certain respects, the operations of agricultural gangmasters and is similar to Orders which have been made for controlling the operations of agricultural contractors. The Order requires gangmasters to register with War Agricultural Executive Committees and to give the Committees particulars of their gangs and operations; and permits Committees to give directions as to the districts in which they may operate, the kind of work which they shall do and the persons for whom they shall work. Executive Committees may also, subject to the approval of the Minister, fix the charges that gangmasters may make.*

AIR RAID PRECAUTIONS

See, also, FIRE PROTECTION, HIGHWAYS, POLICE.

CASES :—		PAGE	PAGE
Baker v. Bethnal Green Corpn., [1944] 2 All E. R. 301	— —	11	Fisher v. Ruislip-Northwood U.D.C. and Middlesex County Council— See HIGHWAYS.

CASES

Negligence—Air-raid shelter—Stairway uneven, inadequately illuminated and no centre hand-rail—Concealed danger—“War injury”—Personal Injuries (Emergency Provisions) Act, 1939 (c. 82), s. 8.

The defendants were the local authority having the management of an underground station which they adapted for use as an air-raid shelter. The plaintiff, her husband and her daughter lawfully entered the shelter together with a large number of other persons and were proceeding down the stairway which was uneven and worn, was not illuminated, and to which there was no hand-rail in the centre, when some person tripped and fell causing a number of the other persons, including the plaintiff and her family, to fall and to collect on one another, so that the plaintiff was injured and her husband and daughter were killed. There had been previous complaints as to the condition of the stairway. The plaintiff brought an action on her own behalf

and as the administratrix of the estates of her husband and her daughter, on the ground that the stairway was in the nature of a trap of which the defendants were aware. The defendants contended (i) that the accident was not caused by the condition of the stairway, and (ii) that the injuries in question were "war injuries" within the meaning of the Personal Injuries (Emergency Provisions) Act, 1939, s. 8, and that, therefore, the plaintiff's actions were barred under s. 3 :—

Held : (i) the cause of the accident was the condition of the stairway which amounted to a concealed danger of which the defendants were aware.

(ii) the effective and dominant cause of the accident was not the air raid but the condition of the stairway, therefore, the injuries sustained as a result of the accident were not "war injuries" within the meaning of s. 8 of the Act.—*BAKER v. BETHNAL GREEN CORPN.*, [1944] 2 All E. R. 301 ; 42 L. G. R. 311. [27]

ANIMALS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE		PAGE
Wild Birds Protection (Adminis-		trative County of Cumberland) Order, 1944 — — — Wild Birds Protection (Administrative County of Oxford) Order, 1944	12 14

ORDERS, CIRCULARS AND MEMORANDA

THE WILD BIRDS PROTECTION (ADMINISTRATIVE COUNTY OF CUMBERLAND) ORDER, 1944

S. R. & O., 1944, No. 721

June 21, 1944

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the Administrative County of Cumberland, I hereby make the following Order :—

TITLE.

1. This Order may be cited as "The Wild Birds Protection (Administrative County of Cumberland) Order, 1944." [28]

BIRDS.

Close Time extended.

2. The time during which the killing or taking of Wild Birds is prohibited within the Administrative County of Cumberland shall be extended so as to begin with the first day of February and end with the eleventh day of August in any year. [29]

Certain Birds deprived of Protection.

3. The Administrative County of Cumberland is hereby exempted from the operation of the Wild Birds Protection Act, 1880, so far as the under-mentioned Birds are concerned :—

Cormorants,
Crows,
Black-backed Gulls,
Herring-Gull,
Sparrow-Hawk,
Jackdaws,

Magpie,
Wood-Pigeon (Ring-Dove),
House-Sparrow,
Starlings except Rose-coloured
Starling.

Certain Birds protected during the Whole of the Year and added to the Schedule to the Act of 1880.

4. During that part of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not apply the killing or taking of the undermentioned species of Wild Birds is prohibited throughout the Administrative County of Cumberland; and the Act shall apply to the undermentioned species that are not included in the Schedule to the Act in the same manner as if they were so included :—

Little Auk,	Ring Ouzels,
Avocet,	Owls,
Bee-eater,	Oyster-catcher,
Bitterns,	Petrels,
Buntings,	Phalaropes,
Buzzards,	Pipits,
Chiffchaffs,	Plovers, except Golden Plovers,
Chough,	Puffin,
Corn-Crake (Land Rail),	Quail,
Crossbills,	Water Rail,
Cuckoos,	Raven,
Dippers,	Razorbills,
Divers,	Redpolls,
Dotterel,	Redstarts,
Dunlins,	Reeve and Ruff,
Peregrine Falcon,	Robins,
Firecrest,	Roller,
Flycatchers,	Sanderling,
Gannet,	Sandpipers,
Godwits,	Shearwaters,
Goldcrests,	Skuas,
Goldfinch,	Hedge-Sparrows,
Grebes,	Tree-Sparrow,
Greenshank,	Spoonbill,
Guillemots,	Rose-coloured Starling,
Gulls, except Black-backed and Herring Gulls,	Stints,
Hoopoe,	Stonechats,
Kestrel,	Swallows,
Kingfisher,	Swift,
Kites,	Terns,
Kittiwake,	Tits,
Lapwing (Green Plover, Peewit),	Tree-creepers,
Larks,	Twites,
Linnet,	Wagtails,
Martins,	Warblers,
Merlin,	Wheatears,
Nightingales,	Whinchat,
Nightjars,	Whitethroats,
Golden Oriole,	Woodpeckers,
	Wrens.

[31]

EGGS.

Certain Eggs protected throughout the County.

5. The taking or destroying of the Eggs of the species of **Wild Birds** to which **Clause 4 of this Order applies** and of the Wild Birds undermentioned is prohibited throughout the Administrative County of Cumberland; but this article shall not apply to the eggs of the Black-headed Gull within that part of the Drigg Sand Hills and Rabbit Warren in the Parish of Drigg and Carleton as lies to the south of a line drawn due west from the centre point of the viaduct carrying the Whitehaven to Millom Railway over the River Irt,

indicated by blue edging on the map deposited with the Clerk of the County Council and sealed with the seal of the Secretary of State and dated the 21st day of June, 1944.

Curlews,
Turtle-Dove,
Wild Duck,
Goosander,
Harriers,
Mergansers,

Osprey,
Golden Plovers,
Redshanks,
Snipe,
Whimbrel,
Woodcock.

[32]

Repeal of former Order.

6. The Order of the 20th June, 1911, is hereby repealed. [33]

* * * *

**THE WILD BIRDS PROTECTION (ADMINISTRATIVE
COUNTY OF OXFORD) ORDER, 1944**

S. R. & O., 1944, No. 1398

December 6, 1944

In pursuance of the powers conferred on me by the Wild Birds Protection Acts, 1880 to 1939, and upon application by the Council of the Administrative County of Oxford, I hereby make the following Order :—

TITLE.

1. This Order may be cited as “The Wild Birds Protection (Administrative County of Oxford) Order, 1944.” [34]

BIRDS.

Certain Birds deprived of Protection

2. The Administrative County of Oxford is hereby exempted from the operation of the Wild Birds Protection Act, 1880, so far as the under-mentioned birds are concerned :—

Cormorants,
Crows,
Black-backed Gulls,
Herring-Gull,
Sparrow-Hawk,
Jackdaws,

Jays,
Magpie,
Little Owl,
Wood-Pigeon (Ring Dove),
House-Sparrow,
Starling.

[35]

*Certain Birds protected during the Whole of the Year and added to the
Schedule to the Act of 1880.*

3. During that part of the year to which the protection afforded by the Wild Birds Protection Act, 1880, does not apply the killing or taking of the undermentioned species of Wild Birds is prohibited throughout the Administrative County of Oxford ; and the Act shall apply to the undermentioned species that are not included in the Schedule to the Act in the same manner as if they were so included :—

Brambling,
Bullfinches,
Buzzards,
Crakes,

Crossbills,
Cuckoos,
Dippers,
Firecrest,

Flycatchers,
 Goldcrests,
 Goldfinch,
 Crebes,
 Hobby,
 Kestrels,
 Kingfisher,
 Kites,
 Lapwing (Green Plover, Peewit),
 Larks,
 Linnet,
 Nightjars,
 Nuthatch,
 Owls, except Little Owl,
 Pipits,
 Water-Rail,
 Redpolls,

Redshanks,
 Redstarts,
 Robins,
 Shrikes,
 Siskin,
 Hedge-Sparrows,
 Stonechats,
 Tits,
 Tree-creepers,
 Wagtails,
 Warblers,
 Wheatears,
 Whinchat,
 Woodpeckers,
 Wrens,
 Wryneck.

[36]

EGGS.

Certain Eggs protected throughout the County.

4. The taking or destroying of the Eggs of the species of **Wild Birds to which Clause 3 of this Order applies** and of the Wild Birds undermentioned is prohibited throughout the Administrative County of Oxford :—

Curlews,
 Wild Duck,
 Quail,

Sandpipers,
 Woodcock.

[37]

Repeal of Former Orders.

5. The Orders of the 17th December, 1935, and 3rd December, 1940, are hereby repealed. [38]

* * * * *

APPROVED SCHOOLS

See INFANTS, CHILDREN AND YOUNG PERSONS.

CATCHMENT BOARDS

See LAND DRAINAGE.

CORONERS

CASES :—

R. v. Huntbach, *Ex parte* Lockley, [1944] 2 All E. R. 453 - - - - - PAGE 15

CASES

Coroner—Inquest—Verdict of suicide—No evidence to support verdict—Inquisition quashed—Fresh inquest ordered before another coroner—Coroners Act, 1887 (c. 71), s. 6 (1) (b), (2)—Coroners (Amendment) Act, 1926 (c. 59), s. 19.

A young man, employed as a haulage hand in a pit in Staffordshire, was found dead in a disused and unventilated heading. His death was due to asphyxiation. An inquest was held, and the coroner recorded a verdict that the death of the man was due to suicide while his mind was temporarily unbalanced. The only facts established by the evidence given at the inquest were that the man, having gone down on the afternoon shift, was allotted a task which he found too heavy for him and was then ordered to report for a haulage job in another district. He was not seen again and when a search was made for him, his body was discovered in the disused heading which had been fenced off and marked "no road" :—

Held : there was no evidence before the coroner to support a verdict of suicide. Suicide is never to be presumed, and the inquisition should be quashed, and an order made for a fresh inquest to be held by another coroner.

Southall v. Cheshire County News Co., Ltd. (1912), 5 B. W. C. C. 251, *applied*.—*R. v. HUNTBACH, Ex parte LOCKLEY*, [1944] 1 K. B. 606; [1944] 2 All E. R. 453; 113 L. J. (K. B.) 360; 60 T. L. R. 389, D. C. [39]

DISEASE

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Treatment of Cancer; Directions for the Use of Record Cards, Part II — — — — —	PAGE
Circular 123/44 : Cancer Act, 1939	16		
Treatment of Cancer : Directions for the Use of Record Cards, Part I —	17		
			23

Circular 123/44

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
21st December, 1944.

County Councils.
County Borough Councils.
Joint Cancer Committees.

SIR,

CANCER ACT, 1939

1. I am directed by the Minister of Health to refer to Circular 1813 dated the 31st May, 1939, in paragraph 13 of which a further Circular on the subject of records was promised. [40]

2. Enclosed are specimens of the cards which the Minister has prescribed after detailed consultation with the Cancer Sub-Committee of his Medical Advisory Committee, and also a copy of a pamphlet in two Parts, the first giving directions for the use of the cards and the second comprising instructions to the medical staff on the records to be kept.

It will be noted that space for numbering is provided on the registration cards. It has not been found possible to have the cards serially numbered for general issue, and therefore the name of the local authority or joint Committee responsible for each scheme should be entered on the card in addition to a local serial number. This should provide for sufficient identification of cases. [41]

3. Authorities now administering schemes approved by the Minister under the Cancer Act should apply to the Ministry for the number of cards they need. It will be noted that the Registration Cards should be kept in duplicate. The number of copies required of each Part of the pamphlet should also be indicated.

The use of the cards should begin from 1st October, 1944. [42]

4. Those authorities which are contemplating submitting schemes for approval should note that the records have now been prescribed and when their arrangements are complete they should indicate the numbers required as set out above. [43]

5. A copy of this Circular and of the enclosures is being sent to the Medical Officer of Health. [44]

I am, Sir, etc.

* * * * *

The Clerk of the Council,
The Town Clerk

or

The Clerk of the Joint Cancer Committee.

TREATMENT OF CANCER

DIRECTIONS FOR THE USE OF RECORD CARDS

PART I

The accompanying pamphlet (Part II) explains the terms used on the Record Cards and indicates the method of their employment. The Minister desires to point out that provision should be made for adequate trained secretarial staff, and that expenditure under this head is properly to be regarded as part cost of treatment.

Part II is intended for the guidance of Registrars and others whose duty it is to make and supervise the records and statistics of patients suffering from cancer.

In cancer, perhaps more than any other disease, successful treatment and advances in methods depend upon accurate clinical and pathological records concerning the individual patient. In the majority of acute and subacute illnesses the end results of treatment are known within a few weeks or months, and the absence of certain symptoms and signs proclaims that the patient is cured: the practitioner can complete his case history with all the relevant details still in mind. With regard to cancer, however, there is no end point at which the patient can be said with certainty to be cured, and good results cannot even be estimated until 5 years from the date of treatment. After such a lapse of time many important details are bound to have been forgotten, and it is thus essential that full and accurate records be made at the time of treatment and careful notes kept thereafter of the patient's condition when he attends for follow-up examination. It is only by such meticulous care that real progress can be hoped for in cancer therapy. The work of the Registrar is as important as that of other members of the team.

In addition to maintaining the general system of registration and follow-up by means of cards, as described herein, it is hoped that some hospitals will be able to undertake more detailed studies of problems of cancer and to carry out special research into the development and evaluation of new methods of treatment. (For all such studies, accurate clinical and pathological records are essential.)

DIRECTIONS FOR THE USE OF CARDS

Precision and uniformity in records are essential if an analysis based upon them is to prove informative rather than misleading. The data to be

recorded have been reduced to the simplest practical form for obtaining information upon the following matters :—

- (1) Incidence of cancer * in relation to site, age and sex.
- (2) Interval between earliest symptoms and the patient's coming under observation and treatment.
- (3) Extent of the disease when first diagnosed.
- (4) Methods of treatment employed.
- (5) Reasons for absence of attempt at radical treatment.
- (6) Survival rates by different methods of treatment.
- (7) Survival rates as affected by the extent of the disease when first diagnosed.
- (8) Comparison between survival rates of all radically treated cases and of those in which there was histological diagnosis of malignancy.
- (9) Interval between earliest symptoms and death.

CLINICAL RECORDS

The clinical records required in respect of cases of cancer are of two, complementary, types, viz., CASE PAPERS and RECORD CARDS.

1. *Case Papers.* Each hospital must keep its own clinical record of each case.
2. *Record Cards.* Two forms of card must be completed for each patient :
 - A. Case Registration Cards, and
 - B. Abstract Cards.

A. Case Registration Cards.

The object of registration is to ensure that each case of cancer which comes to the notice of units working under a Cancer Scheme shall subsequently become the subject of an Abstract Card and therefore included in the final analysis to be conducted centrally. Under approved schemes records must be kept of all cases of cancer, however treated, including those receiving no specific treatment. Only so can a reasonable attempt be made to assess statistically the comparative values of different forms of treatment.

A registration card should be completed for each case of cancer or of suspected cancer, whatever the route by which it comes under the observation of the unit, and however it is eventually to be dealt with. This card should be made out as soon as there are reasonable grounds for a provisional diagnosis of cancer. Cases will occur in which a hitherto unsuspected cancer is discovered during treatment or at a post mortem examination ; these cases should be registered as soon as the diagnosis of malignant disease is made. Immediate registration makes it impossible, in many cases, to record a final diagnosis, but an indication of the first estimate of the situation should be entered under "Provisional Diagnosis," even in indeterminate cases, e.g. :—

Lesion Pharynx	..	..	..	(?)	Carcinoma.
Dysphagia	..	..	..	(?)	Carcinoma œsophagus.
Abdominal mass	..	..	..	(?)	New growth.
Tumour of bone, nature unknown	..	..	..	(?)	Sarcoma.

* The term "Cancer," as defined in the "Manual of the International List of Causes of Death" (H.M.S.O. 1940), includes the following :—

Carcinoma ; epithelioma, scirrhous, rodent ulcer, sarcoma ; malignant growth, tumour or disease ; astrocytoma, blastocytoma, blastoma (with or without prefix), chloroma, chordoma, endothelioma, ependymoma, Ewing's tumour, glioma, malignant cachexia, malignant reticulosis, melanoma, myeloma, papilloma choroidæum, pinealoma, seminoma. Reticular endotheliosis. (The last will include Hodgkin's Disease and leukaemia.)

An Abstract Card will later be sent to the Bureau of the Centre for each patient registered, whether or not the diagnosis is finally determined to be a malignant disease, and whether or not the disease be treated. Non-malignant cases, even if treated, will be excluded from analyses and no further records need be kept by the registering unit for Cancer Scheme purposes.

Registration Cards should be numbered serially and should be issued in duplicate, one copy for retention by the unit. Each number should ultimately be accounted for either by the submission of an Abstract Card or by the return of unused Registration Cards. It is important therefore that none of these cards be mislaid.

A second primary * growth in one patient will necessitate a new Registration Card and in due course a new Abstract Card. The registration number relating to the first growth should be entered on both these cards in addition to the printed number.

The back of the Registration Card is to be left blank, for use by the Bureau only.

B. *Abstract Cards.*

A single design of card is provided for all organs and when it becomes possible different colours will be used for different years, corresponding to the colours of the Registration Cards.

An Abstract Card should be made out for each case registered by the unit and all Abstract Cards relating to patients registered within a given calendar year should be sent to the Bureau after the entry for the one year follow-up has been made. For example, cards of patients treated in 1943 would be sent in in 1945 and every effort should be made to get them to the Bureau before the end of February. Abstract cards of patients who died during the year in question, or in whom the provisional diagnosis of malignant disease was not confirmed, will be retained by the Bureau; the remaining cards should be dealt with on the following system :—

E.g. 1943 Group of Abstract Cards.

1945, February .. Send to Bureau for checking with Registration Cards.

1946, September .. Return to Units.

1947, February .. Send to Bureau with 2nd and 3rd year follow-up.

1948, September .. Return to Units.

1949, February .. Send to Bureau with 4th and 5th year follow-up.

and so on.

A record must be made under each heading, either by making an entry or by striking out the words that do not apply. [45]

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.

September, 1944.

* By "second primary" is to be understood a new primary growth occurring in a separate organ, e.g., cancer of cervix as well as cancer of breast. A second lesion in the same organ or tissue should not be regarded as a second primary.

No.

C**CASE REGISTRATION CARD**

..... SCHEME

Hospital No.....

Name

Registration Date

Provisional Diagnosis.....

FOR USE**CENTRALLY**

Not to be filled in by the Unit

ABSTRACT CARDDate
ReceivedDate
Returned

1.	.....	.....
2.	.....	.....
3.	.....	.....
4.	.....	.....
5.	.....	.....
6.	.....	.....
7.	.....	.....
8.	.....	.....
9.	.....	.....
10.	.....	.....
11.	.....	.....
12.	.....	.....
13.	.....	.....
14.	.....	.....

Retained :

(1) Non-Malignant

(2) Died

C CASE ABSTRACT CARD		CENTRE SCHEME	
Registration No. Hospital No.		Diagnosis : (site and nature of Primary Growth)	
Name Age Sex .....		.....
Registration Date .....		.....
Provisional Diagnosis on Registration Card : .....		.....
.....		M.R.C. Code No.	
First Sign or Symptom		If previously treated elsewhere, state method {	
.....		Healed Recurrent Residual Metastatic	
Date		Clinical Findings :	
.....		Primary Growth : Early Late	
If not treated in Registering Unit, state { Too Advanced Refusal		Secondary Lymph Nodes : Mobile one area Fixed, or more than one area	
Concurrent Disease .....		.....
Referred to		Other Metastases : None Present in (name sites)	
If Found Non-Malignant State Final Diagnosis with M.R.C. Code No. :		Histology :	
.....		By :	
.....		Biopsy	
.....		Whole Tumour	
.....		P.M.	
.....		Malignant Non-Malignant Indeterminate None	

TREATMENT			FOLLOW-UP											
Date	Main Treatment :		Years after First Main Treatment	Date of Examination (E) or Report (R)	Alive				Died				Not traced	
	Organ or Region	(a) Radical (b) Palliative Operation or Method			Primary Growth Present	Metastases Present	No Evidence of Growth	Clinical Findings to Date Intermittate	Primary Growth Present	Metastases Present	No Evidence of Growth	No information as to Persistence of Growth		
			0											
			1											
			2											
			3											
			4											
			5											
			6											
			7											
			10											
			11											
			20											
			Date of Death :											
			Post Mortem Findings :											
			Radical Treatment Completed											
			Palliative Treatment Completed											
			Treatment Not Completed											
			Treatment Abandoned											

PART II

INSTRUCTIONS TO MEDICAL STAFF AND REGISTRARS

Clearly an analysis based upon differently interpreted terms would be of small value, if not misleading. The following notes explain the sense in which the various terms are used and, while it is fully recognised that all of these may not meet with universal acceptance, it is requested that for the purpose of analysis the guidance given be closely observed. The headings are dealt with here in the order in which they appear on the card, only those which require elaboration being mentioned.

First Sign or Symptom

It is hoped that every effort will be made to ascertain what was the first event, *e.g.*, cough, swelling noted, pain, bleeding, etc.

Date

Although it is notoriously difficult to assess this accurately the date on onset should be gauged if possible to the nearest month, *e.g.*, "May 1947".

Reasons for Absence of Treatment in Registering Unit

If two reasons combined to influence the decision as to treatment, both should be stated.

e.g., *Concurrent disease* : Nature should be stated.

Referred elsewhere : The destination, Hospital, Home, etc., should be stated.

DIAGNOSIS

Once the Abstract Card has been sent in to the Bureau, the diagnosis must not be altered. If subsequently found non-malignant, this should be entered in the appropriate place at the left bottom corner of the card.

The organ of origin should be stated, as far as possible in accordance with the classification shown in the Appendix. Each primary growth must be described as belonging to one site only.

In all cases, whether the patient has been previously treated elsewhere or not, the original site and the nature of the growth should be stated :

e.g., Breast, Carcinoma.

Femur, Sarcoma.

Those cases in which the site of the primary is not known should be similarly entered, but qualified by the words "Secondary to unknown primary"—

e.g., Rib, Tumour, secondary to unknown primary.

Cervical glands, Carcinoma, secondary to unknown primary.

Cases previously treated elsewhere

If no previous treatment has been given, state "None".

Where previous treatment has been undertaken to modify the natural course of the disease, the entry of such treatment should be—

Surgery

Radiotherapy

Surgery plus radiotherapy

Other Methods.

Where previous treatment has been undertaken for the relief of symptoms only, a brief statement of the treatment adopted should be given,

e.g., Cystostomy

Gastrostomy

Antrostomy.

Cases treated elsewhere with the intention of modifying the natural course of the disease, should be described in the following terms (Strike out those which do not apply) :—

Healed.—To indicate that no evidence of the disease is manifest, either at the original site or by a metastasis.

Residual.—To indicate that growth has persisted at the original site throughout the interval between the previous treatment and the patient's coming under observation at the registering unit.

Recurrent.—To indicate that after an interval of apparent freedom, growth has re-appeared at the original site.

Metastatic.—To indicate that growth is present either in regional glands or in distant organs or in both whether or not growth persists at the primary site.

If the treatment previously given has been for the relief of symptoms and not with the intention of modifying the natural course of the disease, all four of these terms should be struck out.

More than one of these terms may be used, if necessary, to describe an individual case. The term (or terms) used should be that which is appropriate at the time when the case first came under observation at the registering unit.

HISTOLOGY

The sub-heading "*indeterminate*" is intended for those cases in which a microscopical examination does not enable the histologist to say whether the tissue examined is malignant or not. "*None*" means that no such examination has been made. In either case, correction of this entry should be made (and dated) if further information is obtained.

Where the histological finding is entered as either "*Non-malignant*" or "*Indeterminate*" but the clinical findings of malignancy are still accepted, the case should be regarded as one of malignant disease.

CLINICAL FINDINGS

The method to be employed to describe the clinical condition has been chosen after reconsideration of the methods that have already been used by the Radium Commission, and of those in use elsewhere. It is designed to divide the cases into a number of groups in the hope that useful material will be obtained for the elucidation of the matters enumerated on p. 2 of Part I.

Primary Growth

A plus sign should be entered in the appropriate space against this heading, to indicate whether the primary growth is "early" or "late." For the present, definitions are issued in respect of the following sites only—breast, cervix uteri, mouth and skin. For cancer in other sites, Centres should temporarily adopt or devise their own definitions, as far as possible conforming in a general way to the principle "An early primary growth is one limited to the organ of origin."

Definitions of EARLY GROWTHS

Breast.—A primary tumour which is freely movable on the pectoral muscle (with the muscle contracted) or, if lateral to the pectoral muscle, movable on the chest wall. Skin involvement, including ulceration, may be present but such involvement must be in direct continuity with the tumour and there must not be any extension into the skin wide of the tumour itself.

Cervix Uteri.—A growth which is confined to the cervix and the upper third of the vaginal wall. On rectal and vaginal examination the lateral (*i.e.* outer) halves of the parametria should be felt as free from induration, and there must be no evidence of involvement of the rectum or bladder.

Mouth.—For sites within the oral cavity an "early" growth is defined as one which has an estimated maximum diameter of less than 4 cms.

(*Note.*—It is recognised that the use of measurement to distinguish between "early" and "late" growths is unsatisfactory, but after careful consideration of the different methods that can be used, it has been decided that the above definition is the one which can be most uniformly employed by a large number of different recorders, and it is thus more convenient for statistical analysis.)

Skin.—A growth which is freely movable on underlying structures such as muscle, bone, cartilage (with exception of fixation to cartilages of the ala nasi or of the pinna), and not involving the eyeball. Multiple lesions are included if all conform to this definition.

Secondary Lymph Nodes

In this section, an entry should be made in the appropriate space for those diseases in which a regional lymph node involvement is ascertainable by palpation. The entry under the heading "Mobile—one area" should be used where the lymph node involvement conforms to the following limitations:—

The presence of a node, or multiple discrete nodes, in which growth does not appear to have extended beyond the capsule as indicated by the absence of fixation to muscle, bone or cartilage. (Owing to the difficulty of interpretation, growths apparently adherent to vessels only are not considered as "fixed".)

Only one lymph node area is affected. (Each side of the neck and each inguinal region will count as one area.)

These entries must be based on clinical palpation and NOT on post operation or pathological findings.

Other Metastases

This refers to metastatic involvement other than in the regional lymph nodes, and it includes metastases in skin, lungs, bones, etc. The site, or sites, involved should be stated.

TREATMENT

MAIN TREATMENT

Intent.—Radical or Palliative. The intention with which the main treatment is planned should be decided before treatment is begun, and the entry should not be changed later. It should be indicated by deleting the term which does not apply. The term "Radical" should be used when it is proposed to treat the whole of the known malignant disease by surgical removal or by a full course of radiotherapy.

Date.—is that of the first day of the treatment to which it refers.

The following terminology should be used in describing the methods of treatment adopted:—

Surgery
Radium
Radon
Radium Beam
Low Voltage X-ray
High Voltage X-ray.

Surgery covers any form of surgical procedure and is held to include any form of diathermy coagulation or excision.

Radium covers any form of treatment by radium, whether by implant, mould or intra-cavitary application.

Radon covers any form of treatment by radon, whether by implant, mould or intra-cavitary application.

Radium Beam means treatment by any mass unit.

Low Voltage X-ray Therapy is held to cover the range below 170 kV.

High Voltage X-ray Therapy covers the range from 170 kV. upwards.

If any other forms of treatment come into general use, a further instruction will be issued. If any Centre finds that it is giving a considerable number of treatments which cannot be classified as above, the Secretary of the Minister's Cancer Sub-Committee should be informed, at the Ministry of Health, Whitehall.

Under the treatment section should be entered first the "Region" to which treatment is applied and then the "Method".

Examples :

In a Mouth Case :

Tongue	..	..	..	..	Radium.
Neck Lymph Nodes	..	..	..	..	Surgery.

In a Skin Case :

Nose	..	..	..	..	Low Voltage X-Ray.
Cheek, a new skin growth	..	..	..	..	Radium.

In a case having pre-operative X-rays, operation and immediate post-operative X-rays, the entries would be :—

1.1.45	Breast	..	..	..	X-rays H.V.
7.1.45	Breast	..	..	..	Surgery.
1.2.45	Breast	..	..	..	X-rays H.V.

In a case of parotid tumour in which surgical excision and radium implantation were carried out at the same time, the entry would be :—

1.1.45	Parotid	..	..	..	Surgery.
1.1.45	In the wound	..	..	..	Radium.

OTHER TREATMENTS

All other treatment, whether preliminary to the main treatment, such as colostomy, gastrostomy, and the like, or carried out in association with the main treatment but not of itself treatment of the primary growth, such as surgery of access, e.g., cystotomy, and all subsequent treatments for recurrent or residual lesions, or new metastatic lesions, should be entered under the heading of "Other Treatment".

FOLLOW-UP

Years after first main treatment means completed calendar years dating from (a) the first day of the main treatment in treated cases and (b) the date of registration in untreated cases.

Date of Examination or Report.—This examination should be within as short a period as practicable after the "anniversary" of the beginning of treatment. *Examination* means examination at the registering unit, and the date should be followed by an E. *Report* means information received from some other source, and the date should be followed by an R.

Entries in the remainder of the Follow-up section should be made by a plus sign in the appropriate column for all cases of cancer seen at the registering unit whether as in-patients or as out-patients and whether treated at the

unit or not. The unit is responsible for the Abstract Cards of patients "referred elsewhere" (Cf. Part II, p. 1).

The word "growth" in the Follow-up section relates solely to cancer of the organ cited under DIAGNOSIS or to deposits secondary to that cancer.

Alive.—Each patient living at an anniversary should appear in one of the two columns.

Died

No Evidence of Cancer.—A patient should be entered in this column only if, while free from signs or symptoms attributable to the primary growth or secondary deposits, he has died from some cause such as accident, infectious disease or definitely unrelated organic disease.

No patient who has died within one calendar year of the first day of the main treatment should be allocated to this column; he should be entered in the column "No information regarding persistence of cancer".

Cancer Present.—A patient should be entered in this column, whatever the immediate cause of death, if signs or symptoms attributable to the primary growth or secondary deposits are present at death.

No information regarding persistence of cancer.—Every effort should be made to allocate a patient who has died to one of the two preceding categories; he should be entered in this column only if the information obtainable is insufficient for either of them.

Not traced.—A patient should be entered in this column only when it has proved impossible to ascertain whether, at the anniversary concerned, he is alive or dead. If the unit's own resources are insufficient for the purpose, the help of the Medical Officer of Health to the Local Authority in whose area the patient resided may be enlisted, or as a last resort enquiry should be made of the Registrar General. In many clinics it has been found that periodically a list accumulates of patients who have not been traced but whose death can be presumed within a few months. If a list of such patients, with their occupation and last-known address, is sent to the Registrar General's Office, he will provide the information as to which of them can be found among the registered deaths. A small fee is charged for each search made.

Date of Death.—This should be entered for all cases, in-patients and out-patients, whether treated or not, when it is known.

APPENDIX TO PART II

M.R.C. CODE NUMBERS

Sites under which Cancer is to be classified, arranged in accordance with the Provisional Classification of Diseases and Injuries in compiling Morbidity Statistics. Issued by the Medical Research Council, Special Report Series No. 248, 1943. (M.R.C. coding numbers have been used.)

11	MALIGNANT NEOPLASMS OF THE BUCCAL CAVITY AND PHARYNX
110	Malignant neoplasm of the lip.
111	Malignant neoplasm of the tongue.
112	Malignant neoplasm of the oral mesopharynx.
1120	Malignant neoplasm of the tonsil.
1121	Malignant neoplasm of the soft palate and pharyngeal pillars.
1122	Malignant neoplasm of the lateral pharyngeal wall.
1123	Malignant neoplasm of the posterior pharyngeal wall.
1124	Malignant neoplasm of the vallecula and base of tongue.
113	Malignant neoplasm of the nasopharynx.
114	Malignant neoplasm of the hypopharynx.

- 1140 Malignant neoplasm of the aryepiglottic folds.
- 1141 Malignant neoplasm of the pyriform fossae.
- 1142 Malignant neoplasm of the post-cricoid region.
- 1143 Malignant neoplasm of the lateral and posterior hypopharyngeal wall.
- 115 Malignant neoplasm of other or ill-defined parts of the buccal cavity (including alveolar borders).
- 116 Malignant neoplasm of the salivary glands (including parotid and "mixed salivary gland" tumours).
- 117-119 Unallocated.

12 MALIGNANT NEOPLASMS OF THE DIGESTIVE ORGANS

- 120 Malignant neoplasm of the oesophagus.
- 121 Malignant neoplasm of the stomach and duodenum.
 - 1210 Malignant neoplasm of the stomach (not included in 1211).
 - 1211 Malignant neoplasm of the stomach (proved cases following ulcer).
 - 1212 Malignant neoplasm of the duodenum (not of ampulla of Vater or head of pancreas).
- 122 Malignant neoplasm of the large intestine (except rectum).
- 123 Malignant neoplasm of the rectum (excluding anus).
(Malignant neoplasm of the anus is coded to 161.)
- 124 Malignant neoplasm of the small intestine and of intestines unspecified.
 - 1240 Malignant neoplasm of small intestine.
 - 1241 Malignant neoplasm of intestine unspecified.
- 125 Malignant neoplasm of the liver and biliary passages.
 - 1250 Malignant neoplasm of the liver (with no other primary site known).
 - 1251 Malignant neoplasm of the gall bladder and biliary ducts.
 - 1252 Malignant neoplasm of the ampulla of Vater.
- 126 Malignant neoplasm of the liver believed to be secondary to a neoplasm (not now present) of some other known site; also for use in coding secondary neoplasms producing symptoms in cases where the primary is still present.
 - 1260 With primary neoplasm of stomach.
 - 1261 With primary neoplasm of intestines (except rectum).
 - 1262 With primary neoplasm of rectum.
 - 1263 With primary neoplasm of other digestive organs.
 - 1264 With primary neoplasm of uterus.
 - 1265 With primary neoplasm of other genital organs.
 - 1266 With primary neoplasm of breast.
 - 1267 With primary neoplasm of urinary organs.
 - 1268 With primary neoplasm of other known site.
- 127 Malignant neoplasm of the pancreas.
- 128 Malignant neoplasm of the peritoneum or mesentery (with no other site known).
- 129 Malignant neoplasm of unspecified digestive organs.

13 MALIGNANT NEOPLASMS OF THE RESPIRATORY ORGANS

- 130 Malignant neoplasm of the nose and nasal cavities (this does not include the external surface of the nose, which is coded to 161).
- 131 Malignant neoplasm of the accessory nasal sinuses (excluding sarcomata of bones, which are coded to 168).
- 132 Malignant neoplasm of the larynx and trachea.
 - 1320 Malignant neoplasm of the laryngeal vestibule (epiglottis, false vocal cords, but not aryepiglottic folds).
 - 1321 Malignant neoplasm of the ventricular cavity.
 - 1322 Malignant neoplasm of the vocal cords.
 - 1323 Malignant neoplasm of the subglottic area.
 - 1324 Malignant neoplasm of larynx unspecified.
 - 1325 Malignant neoplasm of trachea.
- 133 Malignant neoplasm of the lung or bronchus (with no other primary site known).
- 134 Malignant neoplasm of the pleura (with no other primary site known).

- 135 Malignant neoplasm of the mediastinum (with no other primary site known).
136 Malignant neoplasm of thoracic organs believed to be secondary to a neoplasm (not now present) of some other known site ; also for use in coding secondary neoplasms producing symptoms where the primary is still present.
1360 With primary neoplasm of genital organs.
1361 With primary neoplasm of urinary organs.
1362 With primary neoplasm of skin.
1363 With primary neoplasm of breast.
1364 With primary neoplasm of bone.
1365 With primary neoplasm of other known site.
137 Malignant neoplasm of unspecified respiratory organs.

14 MALIGNANT NEOPLASMS OF THE BREAST AND
FEMALE GENITAL ORGANS

- 140 Malignant neoplasm of the uterine cervix.
141 Malignant neoplasm of the uterine body, including unspecified neoplasm of the uterus and chorion epithelioma.
142 Malignant neoplasm of the ovary.
143 Malignant neoplasm of the Fallopian tube, and structures in the broad ligament.
1430 Malignant neoplasm of the Fallopian tube.
1431 Malignant neoplasm of other structures in the broad ligament.
144 Malignant neoplasm of the other female genital organs (vulva, vagina, labia, clitoris, Bartholin's glands).
145-148 Unallocated.
149 Malignant neoplasm of the breast.

15 MALIGNANT NEOPLASMS OF THE MALE GENITAL
ORGANS

- 150 Malignant neoplasm of the scrotum.
151 Malignant neoplasm of the prostate.
152 Malignant neoplasm of the penis.
153 Malignant neoplasm of the testicle.
154 Malignant neoplasm of the other male genital organs.

16-17 OTHER MALIGNANT NEOPLASMS

- 160 Malignant neoplasm of the urinary organs.
1600 Hypernephroma of the kidney.
1601 Other malignant neoplasms of the kidney and ureter.
1602 Malignant neoplasm of the bladder.
1603 Malignant neoplasm of other or unspecified urinary organs.
161 Malignant neoplasm of the skin.
1610 Epithelioma (squamous cell carcinoma of skin, excluding scrotum which is coded to 150).
1611 Rodent Ulcer.
1612 Adenocarcinoma of skin and appendages.
1613 Malignant melanoma of skin (choroidal melanomata are coded to 163).
1614 Ill-defined malignant neoplasm of the skin.
162 Malignant neoplasm of the nervous system.
1620 Glioma of the brain.
1621 Other malignant neoplasms of the brain and cranial meninges, and nerves in their inter-cranial pathways.
1622 Glioma of the spinal cord.
1623 Other malignant neoplasms of the spinal cord and spinal meninges.
1624 Malignant neoplasm of the peripheral nerves (neurogenic sarcoma should be classed with malignant neoplasm of connective tissue (170) unless arising from a nerve).

- 1625 Malignant neoplasm of the sympathetic nervous system (excluding sympathetic tumours of the adrenal glands, which should be coded to 165).
- 1626 Glioma of the retina.
- 163 Malignant neoplasm of the eye (excluding glioma retinae).
- 164 Malignant neoplasm of the pituitary and pineal.
- 1640 Malignant neoplasm of the pituitary.
- 1641 Malignant neoplasm of the pineal.
- 165 Malignant neoplasm of the adrenal glands.
- 166 Malignant neoplasm of the thyroid glands.
- 167 Malignant neoplasm of the thymus and other endocrine glands.
- 168 Malignant neoplasm of bones, including sarcoma of jaw, Ewing's tumour of bone and chondrosarcomata.
- 1680 Sarcoma of the jaw (or malignant neoplasm of the jaw).
- 1681 Other malignant neoplasms of bone.
- 169 Malignant neoplasm of bone believed to be a secondary to a neoplasm (not now present) of some other known site ; also for use in coding secondary neoplasms producing symptoms in cases where the primary is still present.
- 1690 With primary neoplasm of thoracic organs.
- 1691 With primary neoplasm of the breast.
- 1692 With primary neoplasm of the prostate.
- 1693 With primary neoplasm of the thyroid.
- 1694 With primary neoplasm of other known site.
- 170 Malignant neoplasm of connective tissue (including fibrosarcomata, myosarcomata, etc.).
- 171 Malignant neoplasm of lymph nodes, etc.
- 1711 Lymphosarcomata, reticulosarcomata.
- 1712 Chloroma.
- 1713 Multiple myelomatosis.
- 1714 Other or unspecified primary malignant neoplasm of lymph nodes.
- 172 Malignant neoplasm of lymph nodes believed to be secondary to a neoplasm (not now present) of some other known site ; also for use in coding secondary neoplasms producing symptoms where the primary is still present.
- 1720 With primary neoplasm of lip.
- 1721 With primary neoplasm of tongue.
- 1722 With primary neoplasm of oral mesopharynx.
- 1723 With primary neoplasm of uterus.
- 1724 With primary neoplasm of other genital organs.
- 1725 With primary neoplasm of breast.
- 1726 With primary neoplasm of skin.
- 1727 With primary neoplasm of other known sites.
- 173 Carcinomatosis, sarcomatosis.
- 174 Other malignant neoplasms.

[46]

MINISTRY OF HEALTH,
WHITEHALL, LONDON, S.W.1.

September, 1944.

DRAINAGE BOARDS

See LAND DRAINAGE.

EDUCATION

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ORDERS, CIRCULARS AND MEMORANDA

Board of Education :
Grant Regulations No. 1.
(Provisional Amendment, 1944).

THE ELEMENTARY EDUCATION GRANT PROVISIONAL AMENDING REGULATIONS, 1944, DATED FEBRUARY 9, 1944

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Elementary Education Grant Regulations, 1940, as amended by the Elementary Education Grant Amending Regulations No. 1, 1940, and by the Elementary Education Grant Provisional Amending Regulations, 1941, the Elementary Education Grant Second Provisional Amending Regulations, 1941, and the Elementary Education Grant Provisional Amending Regulations, 1942. [47]

2. Notwithstanding the provisions of Article 2 of the existing Regulations, one hundred per cent. shall be substituted for the standard percentage in respect of approved net expenditure to which the Authority become committed after the 30th day of April, 1943, for the purpose of establishing and equipping premises and transport facilities for the provision of meals under Sections 82 to 84 of the Act.* [48]

3. In the foregoing Article, the expression “ approved ” means approved by the Board for the purpose of payment of Grant under these Regulations, and for the purpose of such approval the Board will, among other things, take into consideration net expenditure, if any, to which the Authority become committed in providing for some purpose other than that of the provision of meals alternative premises to take the place of premises appropriated from that purpose for the purpose of the provision of meals, and exclude from consideration net expenditure on payment of rent of premises. [49]

4. These Regulations may be cited as the Elementary Education Grant Provisional Amending Regulations, 1944. [50]

* * * * *

* Sections 82 to 84.—See the Education Act, 1921, 7 Statutes 175.

Board of Education :
Grant Regulations No. 4.
(Provisional Amendment, 1944).

THE HIGHER EDUCATION GRANT PROVISIONAL AMENDING REGULATIONS, 1944, DATED FEBRUARY 9, 1944

The Board of Education hereby certify under Section 2 of the Rules Publication Act, 1893, that on account of urgency the following Regulations should come into immediate operation, and accordingly they hereby make the following Regulations to come into operation forthwith as Provisional Regulations :—

1. The existing Regulations hereby amended are the Higher Education Grant Regulations, 1941, as amended by the Higher Education Grant Provisional Amending Regulations, 1942. [51]

2. Notwithstanding the provisions of Article 2 of the existing Regulations, the grant payable to the Authority for the purpose of establishing and equipping premises and transport facilities for the provision of school meals for pupils in full-time attendance at school will be equal to the whole of any approved net expenditure to which the Authority become committed after the 30th day of April, 1943, for that purpose. [52]

3. In the foregoing Article, the expression “ approved ” means approved by the Board for the purpose of payment of grant under these Regulations, and for the purpose of such approval the Board will, among other things, take into consideration net expenditure, if any, to which the Authority become committed in providing for some purpose other than that of the provision of meals alternative premises to take the place of premises appropriated from that purpose for the purpose of the provision of meals, and exclude from consideration net expenditure on payment of rent of premises. [53]

4. These Regulations may be cited as the Higher Education Grant Provisional Amending Regulations, 1944. [54]

* * * *

TREASURY REGULATIONS, DATED OCTOBER 31, 1944, MADE UNDER SECTION 15 OF THE TEACHERS (SUPERANNUATION) ACT, 1925

S. R. & O., 1944, No. 1244

October 31, 1944

The Treasury in pursuance of their powers under Section 15 of the Teachers (Superannuation) Act, 1925, and of all other powers enabling them in that behalf hereby make the following Regulation :

The Treasury Regulations, dated January 10, 1928, made under Section 15 of the Teachers (Superannuation) Act, 1925, regarding the form and manner of preparation of the account of revenue and expenditure to be kept in accordance with the directions contained in the Second Schedule to that Act shall be amended by substituting for Regulation 3 thereof the following Regulation :—

“ 3. Expenditure upon allowances (which expression includes pensions and annuities granted under Section 1 of the Teachers (Superannuation) Act 1937) and gratuities shall, where necessary, be

apportioned in the case of each beneficiary between service before the 1st June 1922 and service since the 1st June 1922 in manner following, that is to say :—

- (a) in the case of payment of an annual allowance for a complete year, the expenditure attributable to service since the 1st June 1922 shall be ascertained by multiplying the amount of the allowance (taken to the nearest pound) by a fraction of which the numerator is the length of recognised and contributory service of the teacher on and after the 1st June 1922 (computed to the nearest year) and of which the denominator is the total amount of recognised and contributory service (similarly computed) and by expressing the product to the nearest pound ;
- (b) in the case of payment of an annual allowance for part of a year, the expenditure attributable to service since the 1st June 1922 shall be taken to be the appropriate proportion of the product obtained under paragraph (a).
- (c) in the case of payment of an annual allowance for a complete year or part of a year, the expenditure attributable to service before the 1st June 1922 shall be taken to be the difference between the amount of the payment and the product obtained under paragraph (a) or (b) as the case may be ;
- (d) in the case of payment of a gratuity or other lump sum, the expenditure attributable to service since the 1st June 1922 shall be ascertained by multiplying the amount of the gratuity or other lump sum (taken to the nearest pound) by a fraction of which the numerator is the length of the recognised and contributory service of the teacher on and after the 1st June 1922 (computed to the nearest year) and of which the denominator is the total length of his recognised and contributory service (similarly computed) and expressing the product to the nearest pound ;
- (e) in the case of payment of a gratuity or other lump sum, the expenditure attributable to service before the 1st June 1922 shall be taken to be the difference between the amount of the gratuity or lump sum and the product obtained under paragraph (d).”

[55]

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Minister of Education.

Grant Regulations No. 10.

(Amendment No. 3, 1944).

THE SECONDARY SCHOOLS AMENDING REGULATIONS NO. 3, 1944

S. R. & O., 1944, No. 1346

November 30, 1944

1. The existing Regulations hereby amended are the Regulations for Secondary Schools, 1935, as amended by the Secondary Schools Amending Regulations No. 1, 1936, and No. 2, 1938 ; and these Regulations supersede the Secondary Schools Provisional Amending Regulations which were made on the 1st August, 1944, to come into operation forthwith as Provisional Regulations. [56]

2. In these Regulations the expression “ the school year ” means the school year beginning on the 1st August, 1943. [57]

3. Where the Minister of Education is satisfied that, in consequence of a decline in the number of its pupils, or of an evacuation plan, or of other circumstances arising out of the present War, a School receiving direct grant is unable to meet reasonable expenses of maintenance, he may pay to the School for the school year such additional grant (if any) as he thinks necessary for safeguarding the financial position of the School. Such additional grant will not, save in exceptional circumstances, exceed £900. [58]

4. Where the Minister of Education is satisfied that adequate and suitable arrangements are made for providing on the premises of a School receiving direct grant mid-day meals, at a charge approximately equal to the cost of the food furnished therein, for those day-pupils of the School whose parents wish them to partake of such meals, he may pay to the School for the school year a special grant at the rate of fourpence for every meal so provided. [59]

5. If any question arises as to the interpretation of these Regulations, or as to whether any of the requirements thereof are fulfilled, or as to the amount of any grant payable thereunder, the decision of the Minister shall be final. [60]

6. These Regulations may be cited as the Secondary Schools Amending Regulations No. 3, 1944. [61]

* * * *

THE SCHEMES OF DIVISIONAL ADMINISTRATION (NOTICES) REGULATIONS, 1944

S. R. & O., 1944, No. 1415

December 13, 1944

1. In pursuance of paragraph 7 of Part III of the First Schedule to the Education Act, 1944, the notices set out in the Schedule hereto are hereby prescribed as the notices to be published with respect to any scheme of divisional administration made by a local education authority or by the council of a borough or district which is an excepted district. [62]

2. These Regulations may be cited as the Schemes of Divisional Administration (Notices) Regulations, 1944. [63]

* * * *

SCHEDULE

I

EDUCATION ACT, 1944

Scheme of Divisional Administration

.....Local Education Authority

Prescribed Notice

Notice is hereby given in accordance with the provisions of paragraph 7 of Part III of the First Schedule to the Education Act, 1944, that the Council of [Joint Education Board for.....] as Local Education Authority have made a Scheme of divisional administration whereby their area is partitioned into the following divisions :—

The Scheme provides for the constitution of divisional executives for such of the above-mentioned divisions as are marked with an asterisk.

Copies of the Scheme may be inspected at the offices of the Authority at or at [here insert suitable alternative places] and may be seen at all reasonable hours.

Any objections to the Scheme should be made to the Minister within two months from [here insert date of publication of Notice].

II

EDUCATION ACT, 1944

Scheme of Divisional Administration

..... Council.

Prescribed Notice

Notice is hereby given in accordance with the provisions of paragraph 7 of Part III of the First Schedule to the Education Act, 1944, that the Council of the Borough [Urban District] of which is an excepted district have made a Scheme of divisional administration for that district.

Copies of the Scheme may be inspected at the Council Offices and at the Offices of the Local Education Authority and may be seen at all reasonable hours.

Any objections to the Scheme should be made to the Minister within two months from [here insert date of publication of Notice]. [64]

THE SCHOOL ATTENDANCE ORDER REGULATIONS, 1944

S. R. & O., 1944, No. 1470

December 29, 1944

1. In pursuance of section 37 of the Education Act, 1944, the form set out in the Schedule hereto is hereby prescribed as the form in which a school attendance order shall be served upon the parent of a child of compulsory school age by a Local Education Authority. [65]

2. These Regulations may be cited as the School Attendance Order Regulations, 1944. [66]

* * * * *

SCHEDULE

EDUCATION ACT, 1944

School Attendance Order

..... Local Education Authority.

Whereas (hereinafter called "the child") is a child of compulsory school age in the area of the above-named Authority :

And whereas you of the parent * of the child, have failed to satisfy the Authority in accordance with the requirements of the notice served on you by the Authority on that the child is receiving efficient full-time education suitable to his[her] age, ability and aptitude either by regular attendance at school or otherwise :

[* In this Order the expression "parent" in relation to the child, includes a guardian and every person who has the actual custody of the child.]

And whereas, in the opinion of the Authority, it is expedient that the child should attend school :

Now therefore you are hereby required to cause the child forthwith to become a registered pupil at the following school :

.....
being the school selected by you [determined by a direction
of the Minister of Education] as the school to be named in this
Order.

[Insert full
name and address
of school ; and
omit the whole
or part of the
following words
as the case
requires.]

Signed

..... to the

Local Education Authority
(County Council) (County Borough Council)

Dated.....

[67]

EDUCATION AUTHORITY

See SPECIAL EDUCATION VOLUME.

EDUCATION COMMITTEE, DIOCESAN

See SPECIAL EDUCATION VOLUME.

EDUCATION FINANCE

See SPECIAL EDUCATION VOLUME.

ELECTIONS

STATUTES :—

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STATUTES

THE PARLIAMENTARY ELECTORS (WAR-TIME
REGISTRATION) ACT, 1944

(7 & 8 Geo. 6, c. 24)

PRELIMINARY NOTE

The provisions of this temporary Act are intended to expire on December 31, 1945, though by s. 1 (2) this date may either be advanced or postponed.

Under Part I of the Parliament (Elections and Meeting) Act, 1943 (separately cited as the Parliamentary Electors (War-Time Registration) Act, 1943), the qualification for entry on the civilian residence register was continuous residence in a constituency for a period of two months' ending on the qualifying date (s. 5 (1) of the 1943 Act), which was defined in s. 1 (4), *ibid.*, as the last day of the month next but one before that in which the election was initiated.

Owing to practical difficulties it has been found necessary to alter this procedure. The changes made by this Act are, therefore :—

- (1) S. 1 (4) of the 1943 Act is amended so as to put back the qualifying date to the last day of the month next but one before that in which the election is initiated (s. 1 (1) (a), *post*).
- (2) The requirements of s. 5 (1) of the 1943 Act are replaced by the provision that a person who, on the qualifying date, is a British subject of full age and not subject to any legal incapacity shall be entitled to be registered in the civilian residence register for an election in any constituency if on that date he is registered in the National Register as residing at a place in that constituency (s. 1 (1) (b), *post*).
- (3) S. 6 (1) of the 1943 Act is amended to provide that a person shall be qualified to be entered in the business premises register if on the qualifying date he is occupying business premises in the constituency, without regard to whether or not he has been doing so continuously for a period of two months ending on the qualifying date (s. 1 (1) (c), *post*). [68]

An Act to make temporary amendments of the Parliamentary Electors (War-Time Registration) Act, 1943, as to the qualifying date for an election and the qualifications required for registration in the civilian residence and business premises registers, and to provide for matters consequential thereon. [69]

[13th July, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Qualifying date and qualifying period.—(1) In relation to any election initiated while this section is in force, the Parliamentary Electors (War-Time Registration) Act, 1943 (hereinafter referred to as the principal Act), shall have effect subject to the following modifications, that is to say :—

- (a) subsection (4) of section one (which provides that the qualifying date shall be the last day of the month next before that in which the election is initiated) shall have effect as if the words "but one" were inserted therein after the word "next";
- (b) for subsection (1) of section five (which defines the qualifications required for registration in the civilian residence register), there shall be substituted the following subsection :—

"(1) Subject to the provisions of this Part of this Act, a person, being on the qualifying date a British subject of full age and not subject to any legal incapacity, shall be entitled to be

registered in the civilian residence register for an election in any constituency if on that date that person is registered in the National Register as residing at a place in the constituency”;

- (c) in subsection (1) of section six (which defines the qualifications required for registration in the business premises register), the following words “and has throughout the period of two months ending with that date occupied those business premises or some other business premises in the same constituency” shall not have effect. [70]

(2) This section shall expire with the thirty-first day of December, nineteen hundred and forty-five:

Provided that

- (a) if at any time while this section is in force, not being less than two months before the date on which it would otherwise expire, the Secretary of State is satisfied that sufficient staff and facilities are available for the operation of the principal Act as originally enacted, he shall make an order advancing the date of expiration to a date specified in the order;
- (b) if at any such time a resolution is passed by each House of Parliament postponing the date of expiration to a date specified in the resolution, the date of expiration shall be postponed accordingly. [71]

(3) On the expiration of this section, subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply as if this section had then been repealed by another enactment; and where the day fixed for nomination at any election occurs before the expiration of this section, but the poll has not taken place before the expiration of this section, this section shall continue in force for the purposes of the election. [72]

Parliamentary Electors (War-Time Registration) Act, 1943.—Part I of the Parliament (Elections and Meeting) Act, 1943, may be cited separately as the Parliamentary Electors (War-Time Registration) Act, 1943, see s. 25 (1) thereof.

Operation of section.—By sub-s. (2) the section is to expire on December 31, 1945, but the Home Secretary may advance the date of expiry by an Order to that effect, or it may be postponed by resolution of both Houses of Parliament.

Interpretation Act, 1889.—S. 38 (2) of the Interpretation Act, 1889, deals with the effect of the repeal of one Act of Parliament by another. In the absence of this subsection it would not apply to the expiration of this section.

2. Consequential amendments.—(1) The said section five of the principal Act shall have effect as respects elections initiated after the date of the expiration of the last foregoing section as if in paragraph (b) of subsection (1) of the said section five (which provides for continuing the qualification of an elector who removes from one constituency without obtaining a qualification in another) the reference to the appointed day were a reference to the said date. [73]

(2) Electoral registration regulations shall not be made under subsection (3) of section twelve of the principal Act (which provides for altering the procedure for compilation of the register as soon as the Secretary of State is satisfied that sufficient staff and facilities are available) so as to have effect while the last foregoing section is in force. [74]

Principal Act.—This refers to Part I of the Parliament (Elections and Meeting) Act, 1943, which may be cited separately as the Parliamentary Electors (War-Time Registration) Act, 1943.

Effect of section.—This section is rendered necessary by s. 1, *ante*. Sub-s. (1), *ante*, deals with the position when s. 1, *ante*, expires.

Electoral Registration Regulations.—The regulations provided for under s. 12 (3) of the Parliamentary Electors (War-Time Registration) Act, 1943, are not to be made whilst s. 1 *ante*, remains in force.

3. Short title and citation.—This Act may be cited as the Parliamentary Electors (War-Time Registration) Act, 1944, and may be cited together with

the principal Act as the Parliamentary Electors (War-Time Registration) Acts, 1943 and 1944, and shall be included among the Acts which may be cited as the Representation of the People Acts. [75]

Representation of the People Acts.—S. 8 (1) of the Representation of the People (Equal Franchise) Act, 1928, provides that that Act and the Representation of the People Acts, 1918 to 1926, may be cited together as the Representation of the People Acts.

THE HOUSE OF COMMONS (REDISTRIBUTION OF SEATS) ACT, 1944

(7 & 8 Geo. 6, c. 41)

PRELIMINARY NOTE

This Act has three objects, viz. :—

- (1) to provide for the immediate subdivision of the twenty most populous English constituencies, with the result that at the next general election the membership of the House of Commons will be increased by twenty-five ;
- (2) to prepare the way for a general redistribution of seats ; and
- (3) to create machinery by which subsequent anomalies of representation may be corrected without further legislation.

In the first place the Act provides (s. 1, *post*) for the establishment of four permanent Boundary Commissioners, for England, Scotland, Ireland and Wales respectively, with the Speaker of the House of Commons as Chairman of each.

S. 2, *post*, makes provision for the subdivision of the twenty largest constituencies in England, by Order in Council, to be approved by resolution of both Houses, following recommendations made by the Boundary Commission for England.

Later each Commission will be required to formulate proposals on which a general redistribution Bill will be based (s. 3, *post*). The proposals are to be made in accordance with rules laid down in the Third Schedule, *post*.

The Commissions will remain in existence after the general review in order to keep the allocation of parliamentary representation under constant review. Under s. 4, *post*, periodical reports are to be made to Parliament.

The City of London and the University constituencies are excluded from the purview of the Commissions (ss. 3 (1) and 6, *post*). [76]

ARRANGEMENT OF SECTIONS

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An Act to make temporary provision for the division of abnormally large constituencies together in certain cases with adjoining constituencies, and permanent provision for the redistribution of seats at parliamentary elections.
[77] [26th October, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Establishment of permanent Boundary Commissions.—(1) For the purpose of the continuous review of the distribution of seats at parliamentary elections, there shall be constituted four permanent Boundary Commissions, namely a Boundary Commission for England, a Boundary Commission for Scotland, a Boundary Commission for Wales and a Boundary Commission for Northern Ireland. [78]

(2) The Boundary Commissions shall be constituted—

- (a) in the case of the Commission for England, as soon as may be after the commencement of this Act ; and
- (b) in the case of the other Commissions, as soon as may be after the date on which regulations made in pursuance of subsection (3) of section twelve of the Parliamentary Electors (War-Time Registration) Act, 1943, (which provides for the publication of electors lists for every constituency) come into force. [79]

(3) The Boundary Commissions shall be constituted in accordance with the provisions of Part I of the First Schedule to this Act, their assistant Commissioners and other officers shall be appointed and their expenses shall be defrayed in accordance with the provisions of Part II of that Schedule, and their procedure shall be regulated in accordance with Part III of that Schedule. [80]

(4) For the purposes of this Act the administrative county of Monmouth shall be taken to be part of Wales and not part of England. [81]

Permanent Boundary Commissions.—The establishment of permanent Commissions as proposed by the Act is new to the United Kingdom. As to their constitution and for other details, see the First Schedule, *post*. The Commission for England has already been constituted.

Parliamentary Electors (War-Time Registration) Act, 1943, s. 12 (3).—By this subsection electoral registration regulations are to be made as soon as the Secretary of State is satisfied that sufficient staff and printing facilities are available, providing for the publication in each constituency of lists of persons who appear to be qualified to be registered if an election is initiated and for the periodical revision of such lists. By the Parliamentary Electors (War-Time Registration) Act, 1944, s. 2 (2), however, no such regulations are to be made so as to have effect while s. 1 of that Act remains in force.

2. Immediate division of constituencies having electorates exceeding 100,000.—(1) The Boundary Commission for England shall forthwith take into consideration the constituencies described in the first and second columns of the Second Schedule to this Act (hereinafter referred to as “abnormally large constituencies”), being constituencies having electorates exceeding one hundred thousand as specified in the third column of that Schedule, and shall as soon as may be submit to the Secretary of State a report showing the constituencies (hereinafter referred to as “new constituencies”) into which they recommend that the abnormally large constituencies should be divided, in order to give effect to the following provisions, that is to say :—

- (a) subject to the next following paragraph, each of the abnormally large constituencies shall be divided into such number of new constituencies as is specified in relation thereto in the fourth column of that Schedule (being the number obtained by dividing its electorate by fifty thousand, disregarding any fraction) ;

- (b) where two or more abnormally large constituencies form a continuous area, that area may be so divided that one or more of the new constituencies include parts of more than one abnormally large constituency ;
- (c) where an area is divided in accordance with paragraph (b) of this subsection, the number of new constituencies into which it is divided shall be the total number of new constituencies that would have been created by dividing, in accordance with paragraph (a) of this subsection, each of the abnormally large constituencies comprised in the area. [82]

(2) Where—

- (a) any part of a county borough or county district within the meaning of the Local Government Act, 1933, is included in an abnormally large constituency, and another part thereof is included in an adjoining constituency which is not an abnormally large constituency ; and
- (b) the Boundary Commission are of opinion that it is desirable to include both parts of the county borough or county district in the same constituency ;

they may, for all the purposes of the foregoing subsection, treat the abnormally large constituency as including the adjoining constituency, and the number of new constituencies into which the abnormally large constituency (including the adjoining constituency) is to be divided as increased by one. [83]

- (3) Each of the new constituencies shall return a single member. [84]

(4) The said report shall be laid by the Secretary of State before Parliament as soon as may be after its submission to him, together with the draft of an Order in Council for giving effect, whether with or without modifications, to the recommendations contained therein. [85]

(5) For the purposes of this section the expression “electorate” in relation to a constituency means the number of electors appearing on the register of parliamentary electors for the constituency which came into force on the fifteenth day of November, nineteen hundred and thirty-nine. [86]

Effect of section.—This section carries out the recommendations of the recent speaker's conference. The result of the redistribution to be effected under the present section will be temporarily to increase the number of members of the House by twenty-five.

County borough or county district.—See the Local Government Act, 1933, s. 1. The object of the discretionary power conferred on the Boundary Commissioners by sub-s. (2) is to enable Parliamentary boundaries to be made to coincide with local government boundaries.

Draft of an Order in Council.—See s. 5, *post*.

3. Initial report of Commissions as to redistribution.—(1) Each Boundary Commission shall, as soon as may be after the date on which regulations made in pursuance of subsection (3) of section twelve of the Parliamentary Electors (War-Time Registration) Act, 1943, come into force, take into consideration the representation in the House of Commons of that part of the United Kingdom with which they are concerned and submit to the Secretary of State a report with respect to the whole of that part of the United Kingdom showing the constituencies into which they recommend that it should be divided, and the number of members which they recommend should be returned by each of them other than the City of London, in order to give effect to the rules set out in the Third Schedule to this Act. [87]

(2) In relation to a report by a Boundary Commission under this section, the enumeration date for the purpose of the Third Schedule to this Act shall be taken to be whichever is the later of the following dates, namely—

- (a) the earliest date on which lists of persons who appear to registration officers to be qualified to be registered in the civilian residence and service registers are required to be published by the said regulations ; or

- (b) the earliest date on which lists of persons who appear to registration officers to be qualified to be registered in the business premises register are required to be published by the said regulations. [88]
- (3) The report of a Boundary Commission under this section shall be laid by the Secretary of State before Parliament as soon as may be after its submission to him. [89]

Effect of section.—This section provides machinery which will ultimately lead to the presentation to Parliament of a general distribution Bill.

Parliamentary Electors (War-Time Registration) Act, 1943, s. 12 (3).—See notes to s. 1, *ante*.
City of London.—The City has been placed outside the purview of the Boundary Commission and is left to be dealt with by Parliament alone. See rule 7 of the Third Schedule, *post*.

Enumeration date.—As to the civilian residence and service registers, see ss. 5 and 8 of the Parliamentary Electors (War-Time Registration) Act, 1943; as to the business premises register, see s. 6, *ibid*. The making of Regulations under s. 12 (3), *ibid*., providing for the publication of lists of persons who appear to be qualified to be registered in the registers is postponed by the Parliamentary Electors (War-Time Registration) Act, 1944, s. 2 (2).

4. Periodical reports of Commissions as to redistribution.—(1) After the submission of their report under the last foregoing section, each Boundary Commission shall keep under review the representation in the House of Commons of the part of the United Kingdom with which they are concerned, and shall, in accordance with the next following subsection, submit to the Secretary of State reports with respect to the whole of that part of the United Kingdom, either—

- (a) showing the constituencies into which they recommend that it should be divided, and the number of members which they recommend should be returned by each of them, in order to give effect to the rules set out in the Third Schedule to this Act; or
 - (b) stating that, in the opinion of the Commission, no alteration is required to be made in respect of that part of the United Kingdom in order to give effect to the said rules. [90]
- (2) Reports under the last foregoing subsection shall be submitted by a Commission—
- (a) in the case of the first report, not less than three or more than seven years from the date of the passing of an Act giving effect (whether with or without modifications) to the recommendations contained in the reports submitted by the Commissions under the last foregoing section; and
 - (b) in the case of the second or any subsequent report, not less than three or more than seven years from the date of the submission of their last report under subsection (1) of this section:

Provided that a report stating that no alteration is required to be made in respect of the part of the United Kingdom with which a Commission is concerned shall not be submitted less than six years from the date of the passing of the said Act, or the date of the submission of their last report under subsection (1) of this section, as the case may be. [91]

(3) Any Boundary Commission may also from time to time submit to the Secretary of State reports with respect to the area comprised in any particular constituency or constituencies in the part of the United Kingdom with which they are concerned, showing the constituencies into which they recommend that that area should be divided, and the number of members which they recommend should be returned by each of them, in order to give effect to the rules set out in the said Third Schedule. [92]

(4) Where a Commission intend to consider making a report under this section, they shall, by notice in writing, inform the Secretary of State accordingly, and a copy of the said notice shall be published—

- (a) in a case where it was given by the Boundary Commission for England or the Boundary Commission for Wales, in the London Gazette ; and
- (b) in a case where it was given by the Boundary Commission for Scotland, in the Edinburgh Gazette ; and
- (c) in a case where it was given by the Boundary Commission for Northern Ireland, in the Belfast Gazette ;

and the date on which any such notice is so published with respect to any report shall, for the purposes of the Third Schedule to this Act, be taken to be the enumeration date in relation to that report. [93]

(5) As soon as may be after a Boundary Commission have submitted a report to the Secretary of State under this section, he shall lay the report before Parliament together, except in a case where the report states that no alteration is required to be made in respect of the part of the United Kingdom with which the Commission are concerned, with the draft of an Order in Council for giving effect, whether with or without modifications, to the recommendations contained in the report. [94]

Effect of section.—This section enables the comparative representation of different areas to be kept under constant review after the general redistribution of seats has been effected, as contemplated in s. 3, *ante*. Any further modified redistribution recommended by a report under sub-s. (1) may be effected by Order in Council approved by both Houses (see s. 5, *post*).

Constituencies.—See the definition in s. 7, *post*, and the exclusion made by s. 6, *post*.

5. General provisions as to reports and Orders in Council.—(1) A report of a Boundary Commission under this Act showing the constituencies into which they recommend that any area should be divided shall state, as respects each constituency, the name by which they recommend that it should be known, and whether they recommend that it should be a parliamentary county or division of a parliamentary county or a parliamentary borough or division of a parliamentary borough. [95]

(2) The draft of any Order in Council laid before Parliament by the Secretary of State under this Act for giving effect, whether with or without modifications, to the recommendations contained in the report of a Boundary Commission may make provision for any matters which appear to him to be incidental thereto or consequential thereon. [96]

(3) Where any such draft gives effect to any such recommendations with modifications, the Secretary of State shall lay before Parliament together with the draft a statement of the reasons for the modifications. [97]

(4) If any such draft is approved by resolution of each House of Parliament, the Secretary of State shall submit it to His Majesty in Council. [98]

(5) If a motion for the approval of any such draft is rejected by either House of Parliament or withdrawn by leave of the House, the Secretary of State may amend the draft and lay the amended draft before Parliament, and, if the draft as so amended is approved by resolution of each House of Parliament, the Secretary of State shall submit it to His Majesty in Council. [99]

(6) Where the draft of an Order in Council is submitted to His Majesty in Council under this section, His Majesty in Council may make an Order in terms of the draft which shall come into force on such date as may be specified therein and shall have effect notwithstanding anything in any enactment :

Provided that the coming into force of any such Order shall not affect any parliamentary election until a proclamation is issued by His Majesty summoning a new Parliament, or affect the constitution of the House of Commons until the dissolution of the Parliament then in being. [100]

(7) The validity of any Order in Council purporting to be made under this Act and reciting that a draft thereof has been approved by resolution of each

House of Parliament shall not be called in question in any legal proceedings whatsoever. [101]

Effect of section.—This section makes unnecessary any further Act of Parliament to give effect either to (a) the preliminary subdivision of large constituencies for which provision is made in s. 2, *ante*, or (b) any recommendations for further redistribution made under s. 4, *ante*.

6. Exception of university constituencies.—Nothing in this Act shall apply to university constituencies, and accordingly in this Act the expression “constituency” shall not include a university constituency, and, in considering for the purposes of this Act the representation in the House of Commons of any area, the representation of university constituencies shall be disregarded. [102]

Effect of section.—This section excludes the university constituencies from the purview of the Boundary Commissions. Any alteration of university representation, now governed by s. 2 of the Representation of the People Act, 1918, as substituted by s. 1 of the Representation of the People (Equal Franchise) Act, 1928, will require special legislation.

University constituency.—For the meaning of this term, see s. 7, *post*.

7. Interpretation.—(1) In this Act the expressions “constituency” (subject to the provisions of the last foregoing section) and “university constituency” have the same meanings as in the Representation of the People Act, 1918. [103]

(2) In the application of this section to Northern Ireland, the reference to the Representation of the People Act, 1918, shall be construed as a reference to that Act as it applies in relation to the election of members to serve in Parliament for constituencies in Northern Ireland. [104]

Representation of the People Act, 1918.—S. 41 of that Act defines “constituency” as meaning any county, borough or combination of places, or university or combination of universities returning a member to serve in Parliament, and, where a county or borough is divided for the purpose of Parliamentary elections, as meaning a division of the county or borough so divided. S. 41 (4) defines “university constituency” as meaning a constituency consisting of a university or combination of universities.

8. Short title and citation.—This Act may be cited as the House of Commons (Redistribution of Seats) Act, 1944, and shall be included among the Acts which may be cited as the Representation of the People Acts. [105]

Representation of the People Acts.—S. 8 (1) of the Representation of the People (Equal Franchise) Act, 1928, provides that that Act and the Representation of the People Acts, 1918 to 1926, may be cited together as the Representation of the People Acts. The Acts concerned are:—

- (1) the Representation of the People Act, 1918;
- (2) the Representation of the People (Amendment) Act, 1918;
- (3) the Representation of the People (Returning Officers' Expenses) Act, 1919;
- (4) the Representation of the People (No. 2) Act, 1920;
- (5) the Representation of the People Act, 1921;
- (6) the Representation of the People Act, 1922;
- (7) the Representation of the People (No. 2) Act, 1922;
- (8) the Representation of the People (Economy Provisions) Act, 1926.

Subsequent Acts which are to be included in the same general citation are:—

- (1) the Representation of the People (Reading University) Act, 1928;
- (2) the Parliamentary Elections (War-Time Registration) Act, 1943; and
- (3) the Parliamentary Elections (War-Time Registration) Act, 1944.

SCHEDULES

Section 1.

FIRST SCHEDULE

CONSTITUTION, OFFICERS, EXPENSES AND PROCEDURE OF BOUNDARY COMMISSIONS

PART I

Constitution

1. The Speaker of the House of Commons shall be the chairman of each of the four Commissions.

2. The Commission for England shall consist of the chairman, the Registrar General of Births, Deaths and Marriages in England, the Director General of Ordnance Survey and two other members of whom one shall be appointed by the Secretary of State and the other by the Minister of Health.

3. The Commission for Scotland shall consist of the chairman, the Registrar General of Births, Deaths and Marriages in Scotland, the Director General of Ordnance Survey and two other members appointed by the Secretary of State.

4. The Commission for Wales shall consist of the chairman, the Registrar General of Births, Deaths and Marriages in England, the Director General of Ordnance Survey and two other members of whom one shall be appointed by the Secretary of State and the other by the Minister of Health.

5. The Commission for Northern Ireland shall consist of the chairman, the Registrar General of Births, Deaths and Marriages for Northern Ireland, the Commissioner of Valuation for Northern Ireland and two other members appointed by the Secretary of State.

6. One of the members of each Commission, to be nominated by the chairman, shall be deputy chairman of the Commission.

7. A member of the House of Commons, or of either House of the Parliament of Northern Ireland, shall be disqualified for being appointed a member of any of the Commissions by the Secretary of State or Minister of Health, and a member of a Commission so appointed shall be disqualified for being a member of the Commission on his becoming a member of any such House.

8. A member of any Commission appointed by the Secretary of State or Minister of Health shall hold his appointment for such term and on such conditions as may be determined before his appointment by the Secretary of State or Minister of Health, as the case may be.

PART II

Officers and expenses

1.—(1) The Secretary of State may, at the request of any Commission, appoint one or more assistant Commissioners to inquire into, and report to the Commission upon, such matters as the Commission think fit.

(2) Any such assistant Commissioner shall be appointed either for a certain term or for the purposes of a particular inquiry, and on such conditions as to remuneration and otherwise as may be determined before his appointment by the Secretary of State with the approval of the Treasury.

2. The Secretary of State shall appoint a secretary to each of the Commissions, and may appoint such other officers of any Commission as he may determine with the approval of the Treasury, and the term and conditions of any such appointment shall be such as may be so determined.

3. The expenses of each Commission, including the travelling and other expenses of the members thereof, and the remuneration and expenses of the assistant Commissioners, secretary and other officers, shall be defrayed out of moneys provided by Parliament.

PART III

Procedure

1. A Commission shall have power to act notwithstanding a vacancy among the members thereof, and at any meeting of a Commission two, or such greater number as the Commission may determine, shall be the quorum.

2. For the purpose of considering any matter of common concern, the Commissions, or any two or three of them, may hold joint meetings.

3. Where a Commission have provisionally determined to make recommendations affecting any constituency, they shall publish in at least one newspaper circulating in the constituency a notice stating—

(a) the effect of the proposed recommendations and (except in a case where they propose to recommend that no alteration be made in respect of the constituency) that a copy of the recommendations is open to inspection at a specified place within the constituency; and

(b) that representations with respect to the proposed recommendations may be made to the Commission within one month after the publication of the notice;

and the Commission shall take into consideration any representations duly made in accordance with any such notice.

4. A Commission may, if they think fit, cause a local inquiry to be held in respect of any constituency or constituencies.

5.—(1) Subsections (2) and (3) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the attendance of witnesses at inquiries), shall apply in relation to any local inquiry which the Commission for England or the Commission for Wales may cause to be held in pursuance of this Act.

(2) In relation to any local inquiry which the Commission for Scotland may cause to be held as aforesaid, the said subsections (2) and (3) shall apply in like manner as if that Act applied to Scotland, with the substitution however of references to an order for references to a summons.

(3) In relation to any local inquiry which the Commission for Northern Ireland may cause to be held as aforesaid, sections nineteen and twenty of the Poor Relief (Ireland) (No. 2) Act, 1847, shall apply.

6. Subject to the foregoing provisions of this Schedule, each of the Commissions shall have power to regulate their own procedure.

7. Every document purporting to be an instrument made or issued by a Commission and to be signed by the secretary or any person authorised to act in that behalf, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the Commission. [106]

Commission for England.—This commission has been constituted, Mr. Roland Burrows, K.C., and Sir Harry G. Pritchard having been appointed by the Home Secretary and Minister of Health respectively.

Local Government Act, 1933, s. 290 (2), (3).—26 Halsbury's Statutes 459.

Section 2.

SECOND SCHEDULE

CONSTITUENCIES TO BE DIVIDED AND NUMBER OF NEW CONSTITUENCIES

Existing Constituency					1939 Electorate	No. of con- stituencies into which existing constituency is to be divided
Parliamentary borough or county		Division (if any)				
Birmingham	..	Moseley	..	..	109,059	2
Blackpool	..	—			106,892	2
Ilford	..	—			123,439	2
Bucks	..	Wycombe	..	..	102,197	2
Chester	..	Altrincham	..	..	119,290	2
Essex	..	Epping	..	..	107,162	2
		Romford	..	..	207,101	4
		South Eastern	..	..	108,383	2
Hertford	..	St. Albans	..	..	102,990	2
Kent	..	Chislehurst	..	..	114,992	2
		Dartford	..	..	134,935	2
Middlesex	..	Harrow	..	..	168,594	3
		Hendon	..	..	208,609	4
		Twickenham	..	..	108,216	2
		Uxbridge	..	..	140,299	2
Surrey	..	Epsom	..	..	132,818	2
		Mitcham	..	..	103,162	2
West Sussex	..	Horsham and Worthing	..		100,834	2
Warwick	..	Nuneaton	..	..	112,503	2
		Tamworth	..	..	118,181	2

THIRD SCHEDULE

Section 3.

RULES FOR DISTRIBUTION OF SEATS

1. The number of constituencies in the several parts of the United Kingdom set out in the first column of the following table shall be as stated respectively in the second column of that table—

<i>Part of the United Kingdom</i>	<i>No. of Constituencies</i>
Great Britain ..	Not substantially greater or less than 591.
Scotland ..	Not less than 71.
Wales ..	Not less than 35.
Northern Ireland ..	12.

2.—(1) A two-member constituency within the meaning of the next following rule which is not divided or required to return a single member as therein provided shall, subject to any adjustment of its boundaries made in accordance with that rule, continue to return two members.

(2) Every other constituency shall return a single member.

3.—(1) Any two-member constituency, the electorate whereof is less than approximately thirty-seven twentieths of the electoral quota or more than approximately two and a half times that quota, shall be divided into or among two or more other constituencies :

Provided that, where the electorate of the constituency is less than approximately one and a quarter times the electoral quota, the constituency may, instead of being divided as aforesaid, be required to return a single member.

(2) Any other two-member constituency shall be divided as aforesaid unless the Boundary Commission concerned, after causing a local inquiry to be held, are satisfied, having regard to any particular circumstances affecting the constituency, that it is undesirable so to divide it.

(3) Where the boundaries of a borough as last defined for the purpose of ascertaining the boundaries of a two-member constituency—

(a) do not include an area which is included within the boundaries of the borough as defined for local government purposes on the enumeration date ; or

(b) include an area which is not included within the boundaries of the borough as so defined for local government purposes ;

then—

(i) in reckoning the electorate of the constituency for the purpose of paragraph (1) of this rule, that area shall be included in or excluded from the constituency, as the case may be ; and

(ii) if it is determined under paragraph (2) of this rule that the constituency shall not be divided as aforesaid, the boundaries of the borough shall be redefined, for the purpose of ascertaining the boundaries of the constituency, so as to include or exclude that area, as the case may be.

(4) In the last foregoing paragraph, for references to a borough there shall be substituted, in its application to Scotland, references to a county of a city and, in its application to Northern Ireland, references to a county.

(5) In this rule the expression “two-member constituency” means a constituency returning two members on the enumeration date.

4. So far as is practicable having regard to rule 1 of these rules, the electorate of any constituency returning a single member shall not be greater or less than the electoral quota by more than approximately one quarter of the electoral quota.

5.—(1) So far as is practicable having regard to the foregoing rules—

(a) in England and Wales,—

(i) no county or any part thereof shall be included in a constituency which includes the whole or part of any other county or the whole or part of a county borough or metropolitan borough ;

(ii) no county borough or any part thereof shall be included in a constituency which includes the whole or part of any other county borough or the whole or part of a metropolitan borough ;

(iii) no metropolitan borough or any part thereof shall be included in a constituency which includes the whole or part of any other metropolitan borough ;

(iv) no county district shall be included partly in one constituency and partly in another ;

(b) in Scotland,—

(i) no county or burgh shall be included partly in one parliamentary county and partly in another, or partly in a parliamentary county and partly in a parliamentary borough ;

(ii) no burgh other than a county of a city shall be included partly in one constituency and partly in another ;

(c) in Northern Ireland, no county district shall be included partly in one constituency and partly in another.

(2) In paragraph (1) of this rule the following expressions have the following meanings, that is to say :—

“ county ” means, in sub-paragraph (a), an administrative county other than the county of London, and, in sub-paragraph (b), a county exclusive of any burgh situate therein ;

“ county borough ” has the same meaning as in the Local Government Act, 1933 ;

“ county district ” has, in sub-paragraph (a), the same meaning as in the Local Government Act, 1933, and, in sub-paragraph (c), the same meaning as in the Local Government (Ireland) Act, 1898.

6. A Boundary Commission may depart from the strict application of the last two foregoing rules if special geographical considerations, including in particular the size, shape and accessibility of a constituency, appear to them to render a departure desirable.

7. Nothing in rules 2 to 6 of these rules shall apply to the City of London, but that City as constituted at the commencement of this Act shall continue to be a separate constituency, and shall return either two members or a single member as may be provided by the Act giving effect (whether with or without modifications) to the recommendations contained in the reports submitted by the Boundary Commissions under section three of this Act.

8.—(1) For the purpose of these rules—

(a) the expression “ electoral quota ” means—

(i) in the application of these rules to a constituency in Great Britain, a number obtained by dividing the electorate for Great Britain by the number of constituencies in Great Britain existing on the enumeration date, or, in applying these rules for the purpose of section three of this Act, by the number of such constituencies existing at the commencement of this Act, namely five hundred and ninety-one ; and

(ii) in the application of these rules to a constituency in Northern Ireland, a number obtained by dividing the electorate for Northern Ireland by the number of constituencies in Northern Ireland existing on the enumeration date ;

(b) the expression “ electorate ”, in relation to any constituency or any part thereof, means—

(i) in a case where the enumeration date falls before the expiration of the Parliamentary Electors (War-Time Registration) Act, 1943, the number of persons whose names appear in the list of persons qualified to be registered in the civilian residence, business premises and service registers for the constituency, or that part thereof, published on or last before that date in pursuance of regulations made under subsection (3) of section twelve of that Act ; and

(ii) in a case where the enumeration date falls after the expiration of the said Act, the number of persons whose names appear on the parliamentary register of electors for the constituency, or that part thereof, in force on that date under the Representation of the People Act, 1918 ;

and, in relation to Great Britain or Northern Ireland, means the aggregate electorates as hereinbefore defined of all the constituencies therein.

(2) In reckoning for the purpose of these rules the number of constituencies in any part of the United Kingdom, a constituency returning two members shall be reckoned as two constituencies. [108]

Rule 1.—As a result of this rule the total number of members for Great Britain after the general redistribution of seats will be substantially the same as at present, and there will be no reduction in the present total representation of Scotland and Wales.

During the interim period there will be a temporary increase of twenty-five members (see the notes to s. 2, *ante*).

Rule 3. *Enumeration date.*—See s. 3 (2), *ante*.

Rule 5. *County borough, county district.*—See the notes to s. 2, *ante*.

Rule 7. *City of London.*—See the notes to s. 3, *ante*.

Rule 8. *Parliamentary Electors (War-Time Registration) Act, 1943.*—25 Statutes Supp. 11. *Representation of the People Act, 1918.*—7 Halsbury's Statutes 548.

LOCAL ELECTIONS AND REGISTER OF ELECTORS (TEMPORARY PROVISIONS) ACT, 1944

(8 & 9 Geo. 6, c. 3)

PRELIMINARY NOTE

This Act extended the operation of the Local Elections and Register of Electors (Temporary Provisions) Act, 1939, for a further period of three months to March 31, 1945.

As a result of the decision of the Government to promote legislation to enable the resumption of local elections to take place in 1945 it was necessary to extend the duration of the Act of 1939, as amended, for a further three months, and this is the purpose of the present Act. [109]

An Act to continue in force the Local Elections and Register of Electors (Temporary Provisions) Act, 1939. [110] [21st December, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Continuance of principal Act.—(1) The Local Elections and Register of Electors (Temporary Provisions) Act, 1939, as amended by the Acts of 1940, 1941, 1942 and 1943, shall continue in force until the thirty-first day of March, nineteen hundred and forty-five, unless sooner repealed. [111]

(2) A reference in the foregoing subsection to an Act of any year shall be construed as a reference to the Local Elections and Register of Electors (Temporary Provisions) Act of that year. [112]

Local Elections and Register of Electors (Temporary Provisions) Act, 1939, as amended.—For the Act of 1939, see 2 Statutes Supp. 14. The amending Acts of 1940, 1941, 1942 and 1943, are the Local Elections and Register of Electors (Temporary Provisions) Acts of those years.

2. Short title.—This Act may be cited as the Local Elections and Register of Electors (Temporary Provisions) Act, 1944. [113]

ORDERS, CIRCULARS AND MEMORANDA

THE NATIONAL REGISTRATION (SERVICE REGISTER) REGULATIONS, 1944

S. R. & O., 1944, No. 630

May 23, 1944

In exercise of the powers conferred on us by the National Registration Act, 1939, and by the Parliamentary Electors (War-Time Registration) Act, 1943, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

PART I

Interpretation, etc.

1.—(1) These regulations may be cited as the National Registration (Service Register) Regulations, 1944.

(2) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(3) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“ the Act of 1918 ” means the Representation of the People Act, 1918, as amended by any subsequent enactment or Order in Council ;

“ the Act of 1943 ” means the Parliamentary Electors (War-time Registration) Act, 1943 ;

“ electoral registration officer ” means a registration officer for the purposes of the Act of 1918 and includes his duly appointed deputy for electoral registration purposes ;

“ electoral registration area ” means a registration area for the purposes of the Act of 1918, and, in relation to an electoral registration officer, means the area for which he is the electoral registration officer ;

“ electoral registration regulations ” means regulations made by the Secretary of State under the Act of 1943 ;

“ the proper officer ”, in relation to a seaman’s declaration or a war worker’s declaration, means the proper officer of the council of the county borough or county district within which the place of residence declared to in the declaration is situate ;

“ member of the forces ”, “ seaman ” and “ service declaration ” have the same respective meanings as in the Act of 1943 ;

“ forces declaration ” and “ seaman’s declaration ” mean respectively a service declaration made by a person by virtue of being a member of the forces and a service declaration made by a person by virtue of being a seaman ;

“ war worker ” means a person who is for the time being registered as a person engaged in war work abroad ;

“ war worker’s declaration ” means a declaration made by any person by virtue of which he is for the time being a war worker ;

“ the Register ” and “ registered person ” have the same respective meanings as in the National Registration Act, 1939 ;

“ central national registration officer ” means an officer appointed under regulation 16 of the National Registration Regulations, 1939 ; and

“ local national registration officer ” means an officer appointed under regulation 17 of those regulations. [114]

PART II

Service Central Index and Service Declarations

2.—(1) There shall be compiled and maintained a central index, to be known as the Service Central Index, of all persons who have made service declarations.

(2) The Service Central Index shall be kept in two parts of which one, relating to members of the forces, shall be kept by the central national registration officer for England and shall be known as the Forces Index, and the other, relating to seamen, shall be kept by the Register-General of Shipping and Seamen and shall be known as the Mercantile Marine Index.

3. There shall be attached to the document containing a service declaration a form (in parts III and IV of these regulations referred to as "the counterpart") containing provision for the insertion by the electoral registration officer concerned of the particulars specified in the first schedule to these regulations and for an acknowledgment by that officer that the place of residence declared to in the declaration is in his electoral registration area. [115]

PART III

Members of the Forces

4. A forces declaration shall be sent, with the counterpart attached, and a cancellation of such a declaration shall be sent, to the electoral registration officer concerned by the officer by whom it is attested. [116]

5.—(1) An electoral registration officer on receiving a forces declaration shall, if the declaration is duly completed and declares to a place of residence within his electoral registration area, complete the counterpart and—

- (a) if according to the particulars contained in the declaration the declarant has attained or will within one month attain the age of twenty-one years, detach the counterpart and send it to the central national registration officer for England;
- (b) if according to those particulars the declarant has not attained and will not within one month attain that age, send the declaration, with the counterpart attached, to the central national registration officer for England.

(2) An electoral registration officer, on receiving a forces declaration which declares to a place of residence within his electoral registration area but is not duly completed, shall send the declaration forthwith to the central national registration officer for England together with a statement of the reason for so sending it.

(3) An electoral registration officer on receiving a cancellation, in the form prescribed by electoral registration regulations, of a forces declaration which declares to a place of residence within his electoral registration area shall—

- (a) if the declaration is in the hands of the officer, give notice of the cancellation to the central national registration officer for England on a form to be provided for the purpose;
- (b) if the declaration is not in his hands, send the cancellation to the last-mentioned officer. [117]

6. The central national registration officer for England shall, in accordance with instructions given by the Register-General of Births, Deaths and Marriages in England,—

- (a) enter in the Forces Index the particulars contained in the counterpart of any forces declaration received by him;
- (b) on receiving a forces declaration sent in pursuance of paragraph (2) of regulation 5 of these regulations, notify the government department concerned accordingly with a view to the completion of the declaration or of a fresh declaration;
- (c) on receiving a forces declaration, or the counterpart thereof, in respect of a person in respect of whom such a declaration has already been made, if he is satisfied, from the particulars contained in the two declarations, or upon inquiry made by him of the government department concerned or of the electoral registration officer for the electoral registration area within which is situate the place of

residence declared to in the former declaration, that the two declarations relate to the same person, record in the Forces Index, and, if—

- (i) according to the particulars contained therein the person has attained the age of twenty-one years, or
- (ii) in the case of a person who according to those particulars has not attained that age, a forces declaration in respect of him has been sent to that officer in pursuance of paragraph (f) of this regulation,

notify that officer, that the former declaration has been cancelled and a fresh declaration made ;

- (d) on receiving from an electoral registration officer a cancellation, in the form prescribed by electoral registration regulations, of a forces declaration or notice of such a cancellation, record the cancellation in the Forces Index ;

- (e) on receiving information of the death of a person whose name appears in the Forces Index, or information from a local national registration officer of the registration, on ceasing to be a member of the forces, of a person whose name appears in the Forces Index, or information from the government department concerned that a person (not being a person who is also a seaman) whose name appears therein has ceased to be a member of the forces, or information from the Registrar-General of Shipping and Seamen that a person has ceased to be a seaman and has, upon so ceasing, forthwith become a member of the forces, record in that Index, and, if—

- (i) according to the particulars recorded therein the person has attained the age of twenty-one years, or
- (ii) in the case of a person who according to those particulars has not attained that age, a forces declaration in respect of him has been sent to the electoral registration officer concerned in pursuance of paragraph (f) of this regulation,

notify that officer, that, as the case may be, the person has died or has ceased to be or become a member of the forces ;

- (f) not less than one month before the date on which a person whose name appears in the Forces Index will, according to the particulars recorded therein, attain the age of twenty-one years, send to the electoral registration officer concerned the latest forces declaration completed by that person ;

- (g) on receiving information from the Registrar-General of Shipping and Seamen that a person whose name appears in the Forces Index is also, or has (without ceasing to be a member of the forces) become, a seaman, or that a person whose name appears in the Mercantile Marine Index is also a member of the forces, record the information in the Forces Index. [118]

7. A forces declaration made by a person whose name appears in the Forces Index shall, if the person ceases to be a member of the forces and upon so ceasing forthwith becomes a seaman, be treated as a seaman's declaration. [119]

PART IV

Seamen

8. A seaman's declaration shall be sent, with the counterpart attached, and a cancellation of a seaman's declaration shall be sent, to the Registrar-General of Shipping and Seamen by the officer or person by whom it is attested. [120]

9. The Registrar-General of Shipping and Seamen shall, in accordance with instructions given by the Registrar-General of Births, Deaths and Marriages in England,—

- (a) on receiving a seaman's declaration sent to him otherwise than in pursuance of paragraph (2) of regulation 10 of these regulations, enter in the Mercantile Marine Index the particulars contained in the counterpart thereof and, if according to the particulars contained in the declaration the declarant has attained or will within one month attain the age of twenty-one years, send the declaration, with the counterpart attached,—
 - (i) if the place of residence therein declared to is situate in England, to the proper officer, who shall send it to the electoral registration officer concerned ;
 - (ii) if the place of residence therein declared to is situate in Scotland, to the Registrar-General of Births, Deaths and Marriages in Scotland, who shall send it to the electoral registration officer concerned ;
 - (iii) if the place of residence therein declared to is situate in Northern Ireland, to the electoral registration officer concerned ;
- (b) on receiving a seaman's declaration sent in pursuance of paragraph (2) of regulation 10 of these regulations, notify the government department concerned accordingly with a view to the completion of the declaration or of a fresh declaration ;
- (c) on receiving a seaman's declaration in respect of a person in respect of whom such a declaration has already been made, if he is satisfied, from the particulars contained in the two declarations, or upon inquiry made by him of the government department concerned or of the electoral registration officer for the electoral registration area within which is situate the place of residence declared to in the former declaration, that the two declarations relate to the same person, record in the Mercantile Marine Index, and, if—
 - (i) according to the particulars contained therein the person has attained the age of twenty-one years, or
 - (ii) in the case of a person who according to those particulars has not attained that age, a seaman's declaration in respect of him has been sent to that officer in pursuance of paragraph (e) of this regulation,

notify that officer, that the former declaration has been cancelled and a fresh declaration made ;

- (d) on receiving a cancellation of a seaman's declaration in the form prescribed by electoral registration regulations, or information of the death of a person whose name appears in the Mercantile Marine Index, or information that a person (not being a person who is also a member of the forces) whose name appears in the Mercantile Marine Index has ceased to be a seaman, record in that Index, and, if—
 - (i) according to the particulars recorded therein the person has attained the age of twenty-one years, or
 - (ii) in the case of a person who according to those particulars has not attained that age, a seaman's declaration in respect of him has been sent to the electoral registration officer concerned in pursuance of paragraph (e) of this regulation,

notify that officer, that, as the case may be, the seaman's declaration has been cancelled or the person has died or has ceased to be a seaman ;

- (e) not less than one month before the date on which a person whose name appears in the Mercantile Marine Index will, according to the particulars recorded therein, attain the age of twenty-one years, send to the electoral registration officer concerned the latest seaman's declaration completed by that person, together with the counterpart thereof ;
- (f) on receiving information that a person whose name appears in the Mercantile Marine Index is also a member of the forces, or has ceased to be a seaman and has, upon so ceasing, forthwith become a member of the forces, or that a person whose name appears in the Forces Index is also, or has (without ceasing to be a member of the forces) become, a seaman, or has ceased to be a member of the forces and has, upon so ceasing, forthwith become a seaman, record the information in the Mercantile Marine Index and notify the central national registration officer for England thereof ;
- (g) on receiving information from the Government department concerned that a person, being both a member of the forces and a seaman and a person whose name appears in either the Forces Index or the Mercantile Marine Index, has ceased to be a seaman, notify the central national registration officer for England accordingly and, if the latest service declaration made by the person is a seaman's declaration, send the counterpart and (if it is in the hands of the Registrar-General of Shipping and Seamen) the declaration to the said officer. [121]

10.—(1) An electoral registration officer on receiving a seaman's declaration shall, if the declaration is duly completed and declares to a place of residence within his electoral registration area, complete and detach the counterpart and send it to the Registrar-General of Shipping and Seamen.

(2) An electoral registration officer, on receiving a seaman's declaration which declares to a place of residence within his electoral registration area but is not duly completed, shall send the declaration, with the counterpart attached, forthwith to the Registrar-General of Shipping and Seamen together with a statement of the reason for so sending it. [122]

11. A seaman's declaration made by a person whose name appears in the Mercantile Marine Index shall, if the person ceases to be a seaman and, upon so ceasing, forthwith becomes a member of the forces, be treated as a forces declaration. [123]

PART V

War Workers

12.—(1) If—

- (a) a registered person makes a declaration in the form headed " Form of war worker's declaration " set forth in the second schedule to these regulations, or in a form substantially to the like effect, and
- (b) the declaration is attested by some responsible officer or agent of the organisation by which the person is employed, and
- (c) the person is certified in accordance with the provisions of paragraph (2) of this regulation to be a person engaged in work of national importance outside the United Kingdom (whether ashore or afloat) in connection with any war in which His Majesty may be engaged, and

- (d) the declaration is sent to the central national registration officer concerned, in accordance with the provisions of paragraph (4) of this regulation,

the registered person shall be recorded in the Register as a person engaged in war work abroad.

(2) A certificate for the purposes of subparagraph (c) of paragraph (1) of this regulation shall be given by an officer authorised for the purpose by the organisation by which the person to whom the declaration relates is employed, who shall certify—

- (a) if the organisation is a government department, on behalf of the department ;
- (b) if the organisation is not a government department, on behalf of any government department on behalf of which the organisation is authorised, under arrangements (including arrangements as to the capacities in respect of which certificates for the said purposes may be given) made between that department and the organisation and communicated to the Registrar-General of Births, Deaths and Marriages in England, to give such certificates.

(3) There shall be attached to the document containing a war worker's declaration a form (in this part of these regulations referred to as "the counterpart") containing provision for an acknowledgment by the electoral registration officer concerned that the place of residence declared to in the declaration is in his electoral registration area.

(4) A declaration made in pursuance of this regulation shall be sent to the central national registration officer concerned by the officer who gives the certificate mentioned in paragraph (2) of this regulation.

(5) A central national registration officer, on receiving a duly completed war worker's declaration, shall complete the counterpart of the declaration and—

- (a) if according to the particulars contained in the declaration the declarant has attained or will within one month attain the age of twenty-one years, send the declaration, with the counterpart attached—
 - (i) if the place of residence therein declared to is in England, to the proper officer, who shall send it to the electoral registration officer concerned ;
 - (ii) if the place of residence therein declared to is situate in Scotland or Northern Ireland, to the electoral registration officer concerned ;
- (b) if according to those particulars the declarant has not attained and will not within one month attain that age, retain the declaration and the counterpart.

(6) A central national registration officer, on receiving a declaration made for the purposes of this regulation which is not duly completed, shall notify the organisation by which it was sent to him accordingly, and the organisation shall take such steps as are practicable for securing the due completion of the declaration or of a fresh declaration and its transmission to the central national registration officer.

(7) An electoral registration officer, on receiving from a central national registration officer a war worker's declaration which declares to a place of residence within his electoral registration area, shall complete and detach the counterpart and return it to the central national registration officer.

(8) This regulation shall have effect in its application to Scotland as if, for the reference to the Registrar-General of Births, Deaths and Marriages in

England there was substituted a reference to the Registrar-General of Births, Deaths and Marriages in Scotland. [124]

13. A war worker may at any time cancel a war worker's declaration made by him by completing a notice, in the form headed "Form of cancellation of war workers declaration" set forth in the second schedule to these regulations or in a form substantially to the like effect, which shall be attested and transmitted to the central national registration officer concerned in like manner as a declaration for the purpose of regulation 12 of these regulations, and that officer shall send the cancellation to the electoral registration officer concerned; and a war worker may (if he so desires) make a further declaration to some other place of residence. [125]

14.—(1) It shall be the duty of an organisation to notify the central national registration officer concerned forthwith if a war worker in the employment of the organisation dies, or leaves the employment of the organisation otherwise than for the purpose of entering the employment of a government department, or—

- (a) (where the organisation is a government department) ceases to be engaged in such work as is mentioned in subparagraph (c) of paragraph (1) of regulation 12 of these regulations, or
- (b) (where the organisation is not a government department) while continuing in such employment, ceases to be engaged in a capacity in respect of which the organisation is authorised, in pursuance of subparagraph (b) of paragraph (2) of that regulation, to give a certificate for the purposes of the said subparagraph (c).

(2) A central national registration officer shall forthwith, upon receiving notification in respect of a war worker in pursuance of paragraph (1) of this regulation, record him in the Register as having ceased to be a person engaged in war work abroad, and notify the electoral registration officer concerned that the person has ceased to be a war worker; and any war worker's declaration then in force in respect of that person shall, upon his being recorded as having so ceased, become void. [126]

15. A central national registration officer shall—

- (a) on receiving a war worker's declaration in respect of a person in respect of whom such a declaration has already been made, if he is satisfied, from the particulars contained in the two declarations, or upon inquiry made by him of the organisation by which the person is employed or of the electoral registration officer for the electoral registration area within which is situate the place of residence declared to in the former declaration, that the two declarations relate to the same person, and if—
 - (i) according to the particulars contained therein the declarant has attained the age of twenty-one years, or
 - (ii) in the case of a person who according to those particulars has not attained that age, a war worker's declaration in respect of him has been sent to that officer in pursuance of paragraph (b) of this regulation,

notify that officer that the former declaration has been cancelled;

- (b) not less than one month before the date on which a war worker will, according to the particulars recorded in the Register, attain the age of twenty-one years, send to the electoral registration officer concerned the latest war worker's declaration completed by that person. [127]

16. A war worker's declaration which declares to more than one place of residence shall be void, and not more than one war worker's declaration made by the same person shall have effect at the same time; and accordingly where a person makes two or more war worker's declarations without expressly cancelling the earlier declaration or declarations, the following provisions shall apply :—

- (a) two or more declarations bearing the same date shall be void ;
- (b) subject to paragraph (a) of this regulation, a declaration bearing a later date shall, without any express cancellation, cancel a declaration bearing an earlier date. [128]

17. References in this part of these regulations to employment by an organisation shall be construed as including references to service in or in connection with an organisation, and the word " employed " shall be construed accordingly. [129]

PART VI

General

18.—(1) An application made by a service voter for the issue of a proxy paper, or notice given by a service voter cancelling a proxy paper, shall be sent by the person by whom it is made to the officer to whom, and in the manner in which, the last service declaration made by the service voter was sent.

(2) In this regulation the expressions " service declaration " and " service voter " include respectively a war worker's declaration and a war worker. [130]

19. An electoral registration officer, and the proper officer of a council, on receiving a service declaration or a war worker's declaration relating to a person whose place of residence as declared to in the declaration is not within the area for which he is appointed or is acting, or a cancellation of such a declaration, shall forthwith send the declaration or cancellation—

- (a) if he knows to what electoral registration officer or, as the case may be, to the proper officer of what council the declaration relates, to that electoral registration officer or, as the case may be, to the proper officer of that council ;
- (b) if not,—
 - (i) in the case of a forces declaration or cancellation thereof, to the central registration officer for England ;
 - (ii) in the case of a seaman's declaration or cancellation thereof, to the Registrar-General of Shipping and Seamen ;
 - (iii) in the case of a war worker's declaration or cancellation thereof, to the central national registration officer concerned. [131]

20. Any document which is required by these regulations to be sent to any officer may be sent to him by post addressed to him at his office. [132]

FIRST SCHEDULE

PARTICULARS TO BE INSERTED IN COUNTERPART OF SERVICE DECLARATION

Name, rank or rating, and service number of Dis. A. number of declarant.
(In the case of a forces declaration) date of birth (if under 21 years) and service of declarant.

Code identifying particulars of electoral registration area. [133]

SECOND SCHEDULE

Form of war worker's declaration

ELECTORAL REGISTRATION (WAR-WORKERS ABROAD)

I HEREBY DECLARE THAT I :—

Surname.....
(BLOCK CAPITALS)

NATIONAL REGISTRATION IDENTITY NO.

Christian Names

Am a British Subject, aged { *21 years or over
*under 21 years, having
been born onDAY MONTH YEAR
: :

and would, but for my engagement in war-work abroad, reside at :—

(Full Postal Address)

I HEREBY CANCEL ANY PREVIOUS DECLARATION MADE BY ME.

Signed..... Date.....

Signature of Attesting Officer

Rank or Capacity

Government Department

or other Organisation

* Cross out inapplicable words.

CERTIFICATE

*(If given by an officer of a Government Department)*I, being a duly authorised officer of a Government Department viz.....
.....hereby certify on behalf of that Department that the above declarant is employed or serving in or in connection with the Department and is engaged in work of national importance outside the United Kingdom in connection with the present War.*(If given by an officer of an authorised organisation)*I, being an officer of.....
acting under the instructions of that organisation in the exercise of the authority conferred upon it by a Government Department or Departments pursuant to National Registration Regulations, hereby certify on behalf of the Department or Departments that the above declarant is in the employment or service of the organisation and is engaged in work of national importance outside the United Kingdom in connection with the present War.

Signed..... Date

Rank or capacity.....

Form of cancellation of war worker's declaration

I :—

Surname.....
(BLOCK CAPITALS)

NATIONAL REGISTRATION IDENTITY NO.

Christian Names.....

hereby cancel any declaration previously made by me for the purpose of obtaining registration as a person engaged in war-work abroad.

Signed..... Date

Signature of Attesting Officer.....

Government Department

or other Organisation

[184]

* * * * *

THE ELECTORAL REGISTRATION REGULATIONS, 1944

S. R. & O., 1944, No. 900

July 20, 1944 *

ARRANGEMENT OF REGULATIONS

PART I

REGISTRATION

Form of Register

1. Separate section of register for each registration unit.
2. Order of names in register.
3. Numbering of names in register, etc.
4. Marking of names in register.
5. Combined register.

Electors Lists

6. Notice inviting applications for registration in business premises register.
7. Duty to publish electors lists.
8. Liverymen.

Claims and Objections

9. Notice as to making of claims and objections.
10. Making and recording of claims and objections.
11. Consideration of claims and objections.

Preparation and Publication of the Register

12. Preparation of civilian residence and business premises registers.
13. Preparation of service register.
14. Publication of register.

Supplementary

15. Declaration as to age and nationality.
16. Reduced fee for certificates of birth.
17. Corrupt and illegal practices list.
18. Adaptation of 2 & 3 Geo. 6, c. 91, s. 8 (2).

PART II

VOTING BY POST OR PROXY

Absent Voters and Service Postal Lists

19. Absent voters list.
20. Service postal list.
21. Record of addresses.

Appointments of Proxies

22. Procedure of registration officer as to appointments of proxies.
23. Special provisions as to appointments by service voters.
24. Applications to vote by post as proxy for service voter.

Voting

25. Procedure for voting by post.
26. Questions which may be asked of proxies voting in person.

* These Regulations having lain before both Houses of Parliament in accordance with section 20 of the Parliamentary Electors (War-Time Registration) Act, 1943, were approved by resolution on August 1, 1944.

PART III

Miscellaneous and General

27. Modifications for second election in a month.
28. Time.
29. Extension of time for notifying number of electors.
30. Forms.
31. Contents and validity of applications, etc.
32. Mode of making applications, sending notices, etc.
33. Attestation of service declarations.
34. Publication of documents.
35. Candidates' copies of electors lists, etc.
36. Inspection of documents and sale of obsolete register.
37. Misnomer, etc.
38. Amendment of 1943 regulations.
39. Interpretation.
40. Application to Northern Ireland.
41. Citation and commencement.

Schedules

FIRST SCHEDULE. Modifications, in relation to proxies for service voters, of rules for voting by post.

SECOND SCHEDULE :

Part I : Timetable for preparation of register, etc.

Part II : Periods during which documents must be kept published.

THIRD SCHEDULE. Forms.

Part I : Forms for use by registration officers.

Part II : Forms for use by service voters.

Part III : Forms for use by other persons.

In pursuance of the powers conferred upon me by the Parliamentary Electors (War-Time Registration) Acts, 1943 and 1944, I hereby make the following regulations :—

PART I

REGISTRATION

Form of Register

1.—(1) The civilian residence register, the business premises register and the service register shall each be framed in separate sections for each registration unit in the constituency.

(2) The local authority may determine the registration units into which any constituency is to be divided, but subject to any such determination the registration officer may take as the registration unit in any constituency or part of a constituency either the polling district or the registration unit of the 1939 register. [135]

2.—(1) The local authority may determine the order to be adopted for the names in any section of the register, but subject to any such determination the names in each section shall be arranged either in street order, or in alphabetical order, or partly in one way and partly in another, according to the order adopted for the corresponding parts of the 1939 register :

Provided that (subject to any such determination) the names in any section or part of a section of the service register may, if the registration officer sees fit, be arranged in alphabetical order though not so arranged in the corresponding part of the 1939 register.

(2) This regulation, so far as it relates to the civilian residence and

business premises registers, is subject to the provision made later in these regulations for compiling the said registers from the electors lists. [136]

3.—(1) Subject to the following provisions of this regulation, the names in the register shall be numbered consecutively with a separate series of numbers (beginning with the number one) in each of the three registers for each polling district.

(2) For the purpose of distinguishing one series from another there shall be assigned to each of the three registers and to each polling district a separate letter or letters, and the letters respectively indicating the register and the polling district shall (without being repeated in the register against every number) be treated as incorporated with the series relating to that polling district in that register and as forming part of each number of the series.

(3) The names in the electors lists for the civilian residence and business premises registers shall be numbered in the same way as names in those registers, and the numbering of the names in the electors list shall be retained in the register—

(a) the number of any name omitted in the register (either altogether or from the place where it appeared in the electors list) being left with a blank opposite it to show the omission is intentional; and

(b) (except at the end of a series) any name inserted in the register or at a different place in the register, whether as the result of a claim or objection or to correct a mistake, being given such interpolated number (for instance 463/1 for a name inserted between the names numbered 463 and 464) as the registration officer thinks fit to indicate its place in the register.

(4) If any correction has to be made in any draft or proof of any register or of any electors list after the names have been numbered, then in making the correction the registration officer may, to save renumbering, leave a blank opposite a number or interpolate a number as indicated in subparagraph (a) or (b), as the case may be, of the last foregoing paragraph. [137]

4. For the purpose of indicating the way in which any elector is entitled to vote at an election, letters shall be placed against the names in the register, as follows :—

(a) in the service register, against the name of any elector who is registered—

(i) as a member of the forces, the letter “ F ”;

(ii) as a seaman, the letter “ S ”;

(iii) as a war worker, the letter “ W ”;

(b) in each register (including any list of liverymen), against the name of any elector if he is entitled to vote by proxy, the letter “ P ”;

(c) in each register, against the name of any elector if he, or, in the case of the service register, if he or some person as his proxy, is entitled to vote by post, the letter “ A ”;

(d) in the business premises register, against the name of any elector who is entered in any list of liverymen, the letter “ L ”. [138]

5. The registers for the registration units making up any constituency shall together form the register of parliamentary electors for that constituency. [139]

Electors Lists

6.—(1) On the initiation of an election in a constituency, the registration officer shall, as soon as may be, publish a notice inviting applications for registration in the business premises register for the election, and specifying

the mode in which and the time within which such applications may be made.

(2) The registration officer shall publish the said notice—

- (a) by making copies thereof available for inspection by the public in his office ; and
- (b) by causing it to be inserted in such newspapers as he thinks most suitable for the purpose of bringing it to the notice of persons interested :

and may also if he thinks fit publish it in any other manner which is in his opinion desirable for that purpose. [140]

7.—(1) On the initiation of an election in a constituency, it shall be the duty of the registration officer, within the time allowed by these regulations, to prepare and publish a civilian residence electors list and a business premises electors list, which shall respectively be in the form to be adopted, in pursuance of regulations one and two of these regulations, for the corresponding parts of the register for the constituency.

(2) The civilian residence electors list shall contain the names and qualifying addresses of all persons who appear to the registration officer, from information furnished to him in accordance with national registration regulations, to be qualified to be registered in the civilian residence register for the election.

(3) The business premises electors list shall contain the names and qualifying addresses of all persons for whose registration in the business premises register for the election applications have, within the time allowed by these regulations, been made to the registration officer in accordance with the Act of 1943 and these regulations and who appear therefrom to be qualified to be so registered :

Provided that the registration officer shall omit from the said list the name of any person who appears to him, from such comparison as it is practicable for him to make of the said applications with other information at his disposal, to be qualified to be registered in the civilian residence or service register for the election. [141]

8.—(1) In the case of the City of London or any borough which has adopted section seventeen of the Act of 1918, there shall be appended to the business premises electors list a provisional list, in such form as the registration officer may determine, of any persons included in that electors list whose applications for registration in the business premises register included applications for them to be entered on the separate list of liverymen for which provision is made by that section and who appear therefrom to be qualified to be so entered.

(2) Regulation three of these regulations shall apply to the numbering of the names in any list of liverymen or provisional list of liverymen as if those lists were sections, for a distinct polling district, of the business premises register and the business premises electors list respectively.

(3) Any reference hereinafter contained to an electors list shall, unless the context otherwise requires, include a reference to the provisional list of liverymen. [142]

Claims and Objections

9. The registration officer shall, within the time allowed by these regulations, publish a notice specifying the mode in which and the times within which claims and objections to the electors lists may be made under these regulations ; and, where the registration officer omits from the business premises electors list, or from the provisional list (if any) of liverymen, the name of any person for whose inclusion in that list an application has been duly

made, he shall, on publishing the list, send to that person notice in writing of the omission of his name and the reason for the omission, together with a copy of the notice published under this regulation. [143]

10.—(1) At any time after the publication of any of the electors lists for an election in a constituency and within the time allowed by these regulations, any person may send to the registration officer—

- (a) a claim to have his name entered in that list, or, if it is already entered therein, to have it entered in a different place or manner ;
- (b) if his name is entered in that or any other of those lists, an objection to the inclusion in that list of the name of any person, or to the place or manner in which the name of any person is entered therein.

(2) Every such claim shall give particulars of the qualification claimed and, in the case of a claim relating to the civilian residence electors list, shall state the claimant's national registration number ; and every such objection shall give particulars of the grounds of the objection and shall state the electors list in which the objector's name is entered and his qualifying address.

(3) If the registration officer is of opinion that a claim or objection cannot succeed either—

- (a) because the particulars given do not support the claim or objection ; or
- (b) because the claim or objection is a repetition of a claim or objection made on some previous occasion and overruled ; or
- (c) because the matter is concluded against the claim or objection by some provision of the Act of 1943 as to evidence ; or
- (d) in the case of a claim to be entered on the business premises electors list or the provisional list of liverymen (if any), because no application for the claimant's inclusion in that list was made in accordance with the Act of 1943 and these regulations,

then, if he sees fit, he may, as soon as may be after receiving the claim or objection, send to the person making the claim or objection a notice stating—

- (i) that he is of that opinion ; but
- (ii) that it is open to that person, not later than the third day after the date of the said notice, to make to him representations in writing in support of the claim or objection,

and, where he sends a notice under this paragraph, shall take no further steps in relation to the claim or objection unless and until, from representations so made, he sees reason to revise his opinion.

(4) The registration officer shall keep separately a list of claims and a list of objections, and subject to the provisions of the last foregoing paragraph, shall, on receipt of a claim or objection, forthwith enter on the appropriate list the name and qualifying address of the person making the claim or objected to, together with the time and place at which he proposes to consider the claim or objection, and until the publication of the register, shall keep the lists of claims and objections (or a copy thereof) at all reasonable times available for inspection by the public at his office.

(5) On entering a claim or objection under the last foregoing paragraph, the registration officer shall send a notice, in the case of a claim, to the claimant and, in the case of an objection, to the person objected to and the person making the objection, stating the time and place at which he proposes to consider the claim or objection ; and the notice sent to a person objected to shall also state the grounds of the objection. [144]

11.—(1) The registration officer shall consider each claim and objection specified in the lists of claims and objections at the place so specified, and at the time so specified or so soon thereafter as is practicable, so that he completes

the consideration of claims and objections within the time allowed by these regulations.

(2) On the consideration of a claim, the claimant shall be entitled to appear and be heard in support of his claim, and any person whose name is entered in any electors list for the election and who objects to the claim, and any other person who appears to the registration officer to be interested, shall be entitled to appear and be heard.

(3) On the consideration of an objection, the person making the objection and the person with respect to whom it is made, and any other person who appears to the registration officer to be interested, shall be entitled to appear and be heard.

(4) Any person entitled by this regulation to appear may appear either in person or by any other person, other than counsel, on his behalf.

(5) The registration officer may, at the request of any person entitled to appear, or if he thinks fit without such a request, require that the evidence tendered by any person shall be given on oath, and may administer an oath for the purpose.

(6) If on consideration of any claim or objection it appears to the registration officer that the name of the claimant, or of the person with respect to whom the objection is made, ought to be entered not in the electors list or section of an electors list in which he claims to be, or is, entered, but in some other list or section, he may decide that the name shall be entered accordingly.

[145]

Preparation and Publication of the Register

12.—(1) The registration officer shall prepare the civilian residence and business premises registers in the following manner :—

- (a) he shall make such additions to and corrections of the electors lists as are required in order to carry out his decisions on any claims or objections ;
- (b) he shall also make any such corrections in those lists, whether by way of the removal of duplicate entries or otherwise, and such additions thereto, as he thinks necessary in order to secure that no person is registered for the election in respect of more than one qualification and that the lists will be complete and accurate as registers ;
- (c) from any provisional list of liverymen, he shall also remove the name of any person who is entitled to vote by post at the election.

(2) The changes necessary to give effect to the foregoing paragraph shall, subject to the provisions of these regulations as to the numbering of the names in the register, be made as follows :—

- (a) the entries relating to persons whose names ought not to be included, or are entered in the wrong place or manner, in any of the lists shall be deleted ; and
- (b) supplementary lists to each section of the civilian residence and business premises electors lists, and to any provisional list of liverymen, shall be made out in such form as the registration officer may determine of any additional or corrected entries.

(3) The civilian residence and business premises electors lists as so corrected (including the relevant supplementary lists) shall respectively form the civilian residence and business premises registers for the election, and any provisional list of liverymen as so corrected (including any supplementary list thereto) shall form the list of liverymen for the election and shall form an appendix to and be treated as part of the business premises register. [146]

13. The registration officer shall prepare a service register containing the names and qualifying addresses of all persons who appear from declarations of residence transmitted, and information furnished, to him in accordance with national registration regulations to be qualified to be registered therein. [147]

14.—(1) The registration officer shall make all the necessary corrections of the electors lists and do everything necessary to form the register in time to allow the publication thereof on the day required by the Act of 1943.

(2) The registration officer shall publish the register by making a copy thereof available for inspection at his office, and by publishing (in manner hereinafter provided) a notice stating that it is so available and specifying the place in or near each registration unit at which copies of the sections of the register relating to that unit are or will be made available for inspection.

(3) It shall be the duty of the registration officer to arrange for copies of the sections relating to any registration unit being made as soon as practicable after the publication of the register, and being kept until the conclusion or abandonment of the election, available for inspection during business hours in that registration unit either—

(a) in the chief post office (if the Postmaster General gives authority for the purpose); or

(b) in some other convenient place to which the public have access;

or if it is impracticable to arrange for use of the said post office and no other convenient place in the registration unit is available, in the nearest convenient place available outside the registration unit being a place to which the public have access.

(4) The registration officer shall, in Scotland, on the publication of the register furnish a copy thereof to the returning officer. [148]

Supplementary

15.—(1) The registration officer, before registering any person (otherwise than in the service register), may if he thinks it necessary—

(a) require that person either to produce a certificate of birth or, if that is not practicable or convenient, to make a statutory declaration that he was of full age on the qualifying date; and

(b) require that person to produce a certificate of naturalisation or to make a statutory declaration that he was a British subject on the qualifying date.

(2) Where a declaration is so made, any fee payable in connection therewith shall be paid by the registration officer as part of his registration expenses, and the declaration shall be exempt from stamp duty.

(3) The registration officer shall during business hours allow any person to inspect and take a copy of any such declaration. [149]

16.—(1) Where for the purpose of these regulations any person requires a certificate of birth, that person shall, on presenting a written requisition and on payment of a fee of sixpence, be entitled to obtain a certified copy of any entry of the birth of that person in the register of births under the hand of the registrar or superintendent registrar having the custody thereof.

(2) Any such requisition shall be in the form prescribed for the purposes of Rule 38 of the First Schedule to the Act of 1918, and the said form shall on application be supplied without charge by every registrar of births and deaths and by every superintendent registrar. [150]

17.—(1) Any corrupt and illegal practices list made out for an election under section thirty-nine of the Corrupt and Illegal Practices Prevention

Act, 1883, as amended by the Act of 1943 shall be published in the first instance at the same time and in the same manner as the business premises electors list for that election.

(2) Any claims and objections to the corrupt and illegal practices list shall be made within the time allowed by these regulations for claims and objections to the said electors list. [151]

18. The Third Schedule to the Act of 1943 shall be varied by substituting for paragraph 7 thereof (which provides that subsection (2) of section eight of the National Registration Act, 1939, shall not penalise the furnishing of information for the purposes of the Act of 1943 in accordance with national registration regulations) the following paragraph :—

“ 7. In relation to information as to the National Register required for the purposes of Part I of this Act, subsection (2) of section eight of the National Registration Act, 1939 (which penalises the improper disclosure of information acquired by persons employed for the purposes of that Act), shall have effect as if—

- (a) any person employed for the purposes of that Act who furnishes any information as to the National Register required for the purposes of the said Part I to another person in accordance with national registration regulations did so in the ordinary course of such employment ; and
 - (b) a person were employed for the purposes of that Act when exercising functions or employed for the purposes of the said Part I ”
- [152]

PART II

VOTING BY POST OR PROXY

Absent Voters and Service Postal Lists

19.—(1) Any person—

- (a) for whose registration in the business premises register for an election an application is or has been made in accordance with the Act of 1943 and these regulations ; or
- (b) who is entered in the civilian residence electors list for an election ; or
- (c) who makes a claim in accordance with these regulations to be entered in that electors list ;

may within the time allowed by these regulations make an application to the registration officer to be entered in the absent voters list for the election, and the registration officer, if satisfied that the applicant, by reason of the nature of his occupation, service or employment, may be debarred from voting at the election, shall enter the name and qualifying address of the applicant on a provisional absent voters list to be prepared by the registration officer.

(2) The provisional absent voters list shall be made out in two parts, corresponding respectively to the civilian residence and business premises registers and each part shall be in the form to be adopted, in pursuance of regulations one and two of these regulations, for the corresponding register for the constituency.

(3) The registration officer shall, within the time allowed by these regulations—

- (a) remove from the provisional absent voters list the name of any person who does not appear in the civilian residence register or in the business premises register for the election on the publication thereof ; and

- (b) number the remaining names in that list consecutively beginning with the number one ; and
- (c) mark in that list with the letter " P " the name of any elector entitled to vote by proxy,

and the list so prepared, with the additions hereinafter mentioned as respects persons voting by post as proxies for service voters, shall be the absent voters list for the election. [153]

20.—(1) Any member of the forces who has as such a qualifying address in the constituency may, within the time allowed by these regulations, make an application to the registration officer to vote by post at an election, and the registration officer shall enter the name and qualifying address of the applicant on a provisional service postal list to be prepared by the registration officer in such form as he may determine.

(2) The registration officer shall, within the time allowed by these regulations—

- (a) remove from the provisional service postal list the name of any person who does not appear as a member of the forces in the service register for the election on the publication thereof ; and
- (b) number the remaining names in that list consecutively beginning with the number one,

and the list so prepared shall be the service postal list for the election. [154]

21. The registration officer shall enter on the absent voters list and the service postal list the addresses (if any) furnished to him by the persons entered therein as the addresses to which ballot papers are to be sent for the purpose of enabling them to vote by post. [155]

Appointments of Proxies

22.—(1) Subject to the provisions of these regulations, the registration officer, on receiving an application duly made to him for the issue of a proxy paper (or, in the case of a service voter's application pending when these regulations come into force, on the coming into force thereof), shall forthwith send to the person nominated in the application as first choice, unless he is satisfied that that person is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, a notice intimating that—

- (a) it is proposed to appoint him as proxy for the voter ; and
- (b) if no notice is received from him within five days intimating that he is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, his appointment will be accepted.

(2) If at the expiration of the said five days no notice has been received intimating that the person nominated as first choice is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, the registration officer shall forthwith send or deliver a proxy paper to the person so nominated :

Provided that the registration officer shall not issue a proxy paper on the application of any person unless and until he is satisfied that the applicant is entitled to appoint a proxy.

(3) If the registration officer is satisfied, or within the said five days notice is received by the registration officer informing him, that the person nominated as first choice is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act

of 1943, the registration officer shall, if another person is nominated as second choice, deal in like manner with the person so nominated.

(4) The registration officer shall keep a list of proxies in two parts, relating respectively to proxies appointed on a service voter's application and to proxies appointed on an absent voter's application, and on issuing a proxy paper shall enter in the appropriate part of the said list the name and address of the person appointed as proxy and the name and qualifying address of the voter, and shall mark in the list with a distinctive mark the name of any proxy stated in the voter's application to be the voter's husband, wife, parent, grandparent, brother or sister. [156]

23.—(1) If the person nominated as first choice in a service voter's application for the issue of a proxy paper, or where another person is nominated as second choice each of such persons, is not willing to be appointed or cannot lawfully be appointed by virtue of the provisions of the Second Schedule to the Act of 1943, or if for any other reason the registration officer does not accept the appointment, the registration officer shall send a notice to the voter informing him of the fact and explaining the reason.

Any notice to be sent under this paragraph—

- (a) to a member of the forces shall be sent by post addressed to him care of the central national registration officer for England ;
- (b) to a seaman shall be sent by post addressed to him care of the Register General of Shipping and Seamen ;
- (c) to a war worker shall be sent by post addressed to him care of the central national registration officer for England, the central registration officer for Scotland or the central national registration officer for Northern Ireland, according to the situation of the constituency ;

with a view to its being forwarded to the proper address as shown in the Service Central Index maintained under subsection (6) of section eight of the Act of 1943.

(2) Subject to the provisions of this regulation, where a proxy paper issued to any person on a service voter's application is cancelled by notice given to the registration officer, or ceases to be in force on the issue of a proxy paper to some other person, the registration officer shall forthwith inform the first-mentioned person of the fact and remove his name from the list of proxies.

(3) Where a member of the forces who has appointed a proxy applies in accordance with these regulations to vote by post at an election, the registration officer shall, as soon as may be, inform the proxy of that fact and that his appointment will not have effect as respects the election then pending, and shall indicate the fact on the list of proxies by placing the letter " A ", together with the date of the initiation of the election, against the name of the voter.

(4) Where a service voter's application for the issue of a proxy paper, or a notice cancelling a proxy paper issued on a service voter's application, is received by the registration officer after the initiation of an election in the constituency, the registration officer shall not take any steps in relation thereto until after the conclusion or abandonment of the election.

(5) Where a service voter's application for the issue of a proxy paper is accompanied by a declaration of residence from which it appears that the service voter has not attained the age of twenty-one, the registration officer shall not take any steps in relation thereto until the date on which the voter appears from the declaration to attain that age, or, if before that date an

election has been initiated in the constituency and has not been concluded or abandoned, until after the conclusion or abandonment of that election.
[157]

24.—(1) Any person who—

- (a) makes an application to be entered in the absent voters list for an election in any constituency, and does not at the same time make an application for the issue of a proxy paper; and
- (b) has been appointed proxy by a service voter having a qualifying address in that constituency;

may, at the same time as he makes that application, make an application also to vote by post at that election on behalf of the service voter.

(2) Any application under this regulation shall be disregarded if the service voter is a member of the forces and himself makes an application, in accordance with these regulations, to vote by post at the election, or if—

- (a) the applicant is not entered in the absent voters list for the election; or
- (b) the service voter is not registered in the service register for the election, or is not entered in the list of proxies as having appointed a proxy; or
- (c) the registration officer is not satisfied, from the application, of the application's identity with the person entered in the list of proxies as the proxy appointed by the service voter.

(3) Subject to the last foregoing paragraph, where the registration officer receives an application under this regulation, he shall place—

- (a) against the applicant's name in the absent voters list for the election an additional number, made up of his original number in that list and of a letter (which shall, in the case of an applicant making more than one application for the same election, be different for each application); and
- (b) against the name of the service voter in the list of proxies, the additional number placed against the proxy's name in the absent voters list as proxy for that voter, together with the date of the initiation of the election. [158]

Voting

25. Part III of and the Fourth Schedule to the Representation of the People Order shall apply in all respects to voting by post under the Act of 1943, whether by absent voters in their own right or as proxies or by service postal voters, as they apply to voting by post by absent voters under the Act of 1918, and references therein to absent voters or the absent voters list shall be construed accordingly:

Provided that—

- (a) with the number of the elector marked on the counterfoil of the ballot paper issued to him there shall, in the case of a person voting in his own right, be included a distinctive mark to indicate whether he is entered in the absent voters list or the service postal list;
- (b) at the end of the instructions to the voter set out in Form No. I in the said Fourth Schedule there shall be added as part of paragraph 6 (which sets out the number of votes an elector may give at a general election) the following sentence:—

“A voter may also vote on behalf of any person by whom the voter has been duly appointed proxy, subject to the limitation that a voter may not vote in any one constituency as proxy for more than two persons of whom the voter is neither the husband, wife, parent, grandparent, brother or sister”;

- (c) the said Part III and the said Fourth Schedule shall, in relation to persons voting by post as proxies for service voters, have effect subject to the modifications for which provision is made by the First Schedule to these regulations. [159]

26.—(1) The questions which may be asked of a person claiming to vote in person at an election as proxy for an elector shall be—

- (a) the first question set out in section eighty-one of the Parliamentary Voters Registration Act, 1843, modified so as to run as follows :—

“Are you the same person whose name appears as AB on [this proxy paper] [*or where the proxy is permitted to vote without producing the proxy paper*] on the list of proxies for this election] as entitled to vote as proxy on behalf of CD ? ”

- (b) the questions in Part II of the Second Schedule to the Act of 1918, modified so as to run as follows :—

- (i) in the case of a person voting as a proxy on behalf of a person registered in the civilian residence or service register :—

“Have you already voted at this general election on behalf of CD in respect of a residence qualification ? ”

- (ii) in the case of a person voting as proxy on behalf of a person registered in the business premises register :—

“Have you already voted at this general election on behalf of CD in respect of a qualification other than a residence qualification ? ”

(2) The oath to be administered (elsewhere than in Scotland) to a person claiming to vote as proxy in relation to the said questions shall be as follows :—

“I swear by Almighty God [*or I do solemnly, sincerely and truly declare and affirm*] that I am the same person whose name appears on [this proxy paper] [*or as the case may be*] the list of proxies for this election] as AB appointed to vote as proxy on behalf of CD”. [160]

PART III

MISCELLANEOUS AND GENERAL

27.—(1) Where, after the initiation in any month of a by-election in any constituency, either—

- (a) a general election ; or
(b) in the case of a constituency returning more than one member, a subsequent by-election in the constituency,

is initiated in the same month, then—

- (i) anything done under or for the purposes of these regulations in relation to the first election shall have effect also in relation to the subsequent election ;
(ii) for the purpose of determining the time for doing anything under or for the purposes of these regulations, the initiation of the first election and the conclusion or abandonment of the subsequent election shall respectively be taken to be also the initiation of the subsequent election and the conclusion or abandonment of the first election.

(2) Nothing in this regulation shall be taken as affecting the day on which the register for the subsequent election is to come into force under the Act of 1943. [161]

28.—(1) Subject to the provisions of the last foregoing regulation and to any modifications for which provision may be made, in relation to particular constituencies, by an order of the Secretary of State under section four of the Act of 1943, the time allowed by these regulations for any matter shall be—

(a) in the case of any matter mentioned in the second column of Part I of the Second Schedule to these regulations, the time mentioned in relation to that matter in the first column of that Part of that Schedule ;

(b) in the case of any other matter, the time mentioned in relation to that matter in the body of these regulations.

(2) Where the last day of the time allowed by these regulations for any matter, other than the consideration of claims and objections, falls on a Sunday, Christmas Day, Good Friday or a bank holiday, that time shall be extended until the end of the next following day which is not a Sunday, Christmas Day, Good Friday or a bank holiday.

(3) In this regulation to expression “ bank holiday ” means, in relation to any constituency, a day which is a bank holiday under the Bank Holidays Act, 1871, as amended by any subsequent enactment (including Defence Regulations), in that part of the United Kingdom in which the constituency is situated. [162]

29.—(1) In the constituencies mentioned in paragraph (2) of this regulation, the notice specifying the number of electors in each polling district in the constituency which is required to be published by the registration officer under paragraph 1 of the Third Schedule to the Act of 1943 may be published at any time not later than the fifteenth day from the initiation of the election.

(2) The constituencies referred to in the foregoing paragraph are the following parliamentary boroughs and divisions of parliamentary boroughs :

(a) *In London*

The City of London, Finsbury, Holborn, St. Marylebone, the South West division of St. Pancras, Shoreditch, the Whitechapel and St. George's division of Stepney and both divisions of Westminster ;

(b) *In England, excluding London*

The Edgbaston and the West Birmingham divisions of Birmingham, the Central divisions of Bradford, Bristol, Kingston-upon-Hull and Leeds, the South division of Leicester, the Exchange divisions of Liverpool and Manchester and the Central divisions of Newcastle-upon-Tyne, Nottingham and Sheffield ;

(c) *In Wales*

The Central division of Cardiff ;

(d) *In Scotland*

The Central and North divisions of Edinburgh and the Central, Gorbals and Kelvingrove divisions of Glasgow ;

(e) *In Northern Ireland*

All the four divisions of Belfast. [163]

30.—(1) The forms set out or described in the Third Schedule to these regulations, or forms to the like effect, shall be used for the purposes respectively mentioned in relation thereto in the Schedule, and are the forms prescribed for those purposes :

Provided that, instead of Forms E and F in Part II of that Schedule, the corresponding forms prescribed by the Electoral Registration Regulations, 1943, may be used.

(2) The registration officer shall, without fee, on the application of any person supply any of the forms prescribed by Part III of the said Third Schedule. [164]

31.—(1) No application, claim, declaration or notice for which a form is prescribed by these regulations shall be of any effect unless it gives, with reasonable clearness, the particulars and other information required by that form.

(2) No such application, claim, declaration or notice shall be invalid by reason only of the fact that it gives any such particulars or information in a manner other than that indicated by the form. [165]

32.—(1) Any application to be made to the registration officer under the Act of 1943 or these regulations shall, where no form is prescribed, be made in writing signed by the applicant and sent to the registration officer.

(2) Any application, claim or notice which is required by the Act of 1943 or these regulations to be made or sent to the registration officer may be sent to him by post addressed to him either at the address notified by him for the purpose or at his office, unless some other method is required by national registration regulations.

(3) Any notice which is required by the Act of 1943 or these regulations to be sent by the registration officer to any person may be sent by post to the address of that person as given by him for the purpose, or as appearing on the list to which the notice relates, or, if there is no such address, to his last known place of abode, unless some other method is required by these regulations. [166]

33.—(1) A service declaration made by a member of the forces shall be attested by a commissioned officer in the armed forces of the Crown.

(2) A service declaration by a seaman shall be attested either—

(a) by the master of the ship (being a British ship registered in the United Kingdom) in which he is serving at the time of making his declaration ; or

(b) by a superintendent within the meaning of the Merchant Shipping Act, 1894 ; or

(c) by a British consular officer. [167]

34.—(1) Where the registration officer is required by these regulations to publish any document (and no specific provision is made as to the mode of publication), he shall publish the document by making copies of the document available for inspection by the public in his office.

(2) Where the document relates to a registration unit he shall also publish it by making copies thereof available for inspection by the public at the place at which the sections of the register relating to that registration unit have been or are to be made available under these regulations.

(3) The registration officer may also if he thinks fit publish any document in any other manner which is in his opinion desirable for the purpose of bringing the contents of the document to the notice of persons interested.

(4) The documents set out in the first column of Part II of the Second Schedule to these regulations shall be kept published for the times respectively set out in the second column of that Part of that Schedule.

(5) Any failure to publish a document in accordance with these regulations shall not invalidate the document, but this provision shall not relieve the registration officer from any penalty for such a failure.

(6) If any person without lawful authority destroys, mutilates, defaces or removes any notice published by the registration officer in connection with his registration duties, or any document which has been made available for inspection by the public in accordance with these regulations, he shall be liable on summary conviction to a fine not exceeding five pounds. [168]

35.—(1) The registration officer shall, if requested by a candidate at an election or his election agent, supply without fee for the use of the candidate in connection with the election copies, to any number not exceeding eight, of the electors lists, of the service register and of a note (to be prepared by him for the purpose) of the differences between the electors lists and the civilian residence and business premises registers :

Provided that no candidate shall be entitled to have more than two copies of any electors list, or of the service register, supplied for his use unless either the request is made before the date on which that list or register, as the case may be, is required to be published under these regulations or the Act of 1943, or copies are available after allowing for the number required apart from this regulation and the possibility of further requests under this regulation and without making additional copies for the purpose.

(2) For the purposes of the foregoing paragraph, a copy in which one side of every sheet is left blank shall count as two :

Provided that the number of copies to which a candidate is entitled shall not, by virtue of this paragraph, be reduced to a number less than six.

(3) In relation to any time before nomination at an election, the expression " candidate " in this regulation means any person who appears to the registration officer to be genuinely seeking nomination thereat. [169]

36. The registration officer—

(a) shall allow any person to inspect and take extracts from any document required by these regulations to be published or kept for inspection by the registration officer or any claim or notice of objection made under these regulations ;

(b) may, after the conclusion or abandonment of an election, supply to any person copies of the register or any part thereof on payment of a fee of one shilling with the addition of one penny for every 125 (or part of 125) names after the first 125. [170]

37.—(1) No misnomer or inaccurate description of any person or place on any list or on the register or in any notice shall prejudice the operation of the Act of 1943 or these regulations as respects that person or place provided that the person or place is so designated as to be commonly understood.

(2) The registration officer may, in any case where he thinks it expedient so to do for the purpose of preventing confusion, enter against the name of any person on any list or on the register or in any notice his national registration number. [171]

38.—(1) In regulation two of the Electoral Registration Regulations, 1943, the words from " but a person ceasing to be a war worker " to the end of the regulation (which modify in relation to war workers provisions of the Act of 1943 suspended by section one of the Parliamentary Electors (War-Time Registration) Act, 1944) shall not have effect for the purposes of any election initiated while that section is in force.

(2) Subject to the provisions of regulation thirty of these regulations, Part II of and the Schedule to the Electoral Registration Regulations, 1943 (which contain provisions as to service declarations, etc., now embodied in these regulations) are hereby revoked. [172]

39.—(1) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“the Act of 1918” means the Representation of the People Act, 1918, as amended by any subsequent enactment or Order in Council ;

“the Act of 1943” means the Parliamentary Electors (War-Time Registration) Act, 1943, as amended by the Parliamentary Electors (War-Time Registration) Act, 1944 ;

“declaration of residence” means a service declaration or war worker’s declaration ;

“local authority” means the authority whose clerk the registration officer is or by whom he is appointed ;

“national registration regulations” means national registration regulations, as defined by the Act of 1943, made by virtue of that Act ;

“1939 register” means the register of parliamentary electors which came into force in the year nineteen hundred and thirty-nine ;

“qualifying address”, in relation to any person, means according to the context either—

(a) the address of the place in the constituency at which that person is registered in the National Register as residing on the qualifying date ; or

(b) the address of the premises in respect of which an application has been made for that person’s inclusion in the business premises register for the constituency ; or

(c) the address given in that person’s declaration of residence ;

“service voter” includes a war worker ;

“war worker” means a person who is for the time being registered in the National Register as a person engaged in war work abroad ;

“war worker’s declaration” means a declaration made by any person by virtue of which he is for the time being a war worker.

(2) References in these regulations to an election shall be construed as referring only to an election for which the register is a register prepared under the Act of 1943.

(3) The Interpretation Act, 1889, shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [173]

40. These regulations shall, in their application to Northern Ireland, have effect subject to the following modifications :—

(a) the registration unit in any constituency shall be the registration unit of the 1939 register and accordingly paragraph (2) of regulation one shall not apply ;

(b) in paragraph (1) of regulation two the expression “local authority” means the council of the county or county borough in which the registration unit is situated, and for the words “or partly in one way and partly in another” there shall be substituted the words “or alphabetically in townland order” ;

(c) applications for registration in the business premises register in respect of premises situated—

(i) in a county borough or borough, shall be made to the town clerk of that county borough or borough ;

(ii) in an urban district, shall be made to the clerk of the council of that district ;

(iii) in a rural district, shall be made to the secretary of the council of the county in which that district is situated ;

(d) an objection to the inclusion of the name of any person in an electors list, or to the place or manner in which the name of any person is entered in an electors list, shall not be entertained unless—

- (i) a separate notice of objection in respect thereof is sent to the registration officer ; and
 - (ii) a copy of that notice is, within the time allowed by these regulations for the making of claims and objections to that list, sent by prepared and registered post by the person objecting to the person with respect to whom the objection is made either at his address as appearing in that list or at his last known place of abode ;
- (e) in the case of the constituency of Fermanagh and Tyrone the powers and duties of the registration officer with respect to the removal of duplicate entries from the electors list for the purpose of forming them into registers and such other powers and duties of the registration officer as may be specified by the Secretary of State (being powers and duties which in the opinion of the Secretary of State ought to be exercised and performed by an officer acting for the whole of a constituency) shall be exercised by such one of the registration officers for that constituency as may be designated for the purpose by the Secretary of State. [174]

41.—(1) These regulations may be cited as the Electoral Registration Regulations, 1944, and these regulations and the Electoral Registration Regulations, 1943, may be cited together as the Electoral Registration Regulations, 1943, and 1944.

(2) These regulations shall come into force on the twentieth day of August, nineteen hundred and forty-four. [175]

* * * * *

SCHEDULES

FIRST SCHEDULE

MODIFICATIONS, IN RELATION TO PROXIES FOR SERVICE VOTERS, OF RULES FOR VOTING BY POST

1. Subject to the provisions of this Schedule, the procedure to be followed in relation to an absent voter entitled to vote by post as proxy for a service voter shall be the same as if there were a separate entry of the absent voter's name in the absent voters list in respect of each number placed against it in that list and as if each such entry related to a different person entitled to vote as an absent voter in his own right.

2.—(1) Where it appears to the returning officer from a comparison of the absent voters list with the list of proxies that an absent voter has applied to vote by post as proxy on behalf of more than two other persons of whom the absent voter is neither the husband, wife, parent, grandparent, brother or sister, the returning officer shall not issue ballot papers to the absent voter as proxy for more than two of those other persons.

(2) Where, under this paragraph, a returning officer determines not to issue a ballot paper to an absent voter as proxy for a service voter, he shall cause any copies of the register which are to be used at the poll to be amended by deleting the letter " A " against the name of that service voter.

3. All the ballot papers issued to any one absent voter shall be sent to him in the same envelope and there shall be included therewith only one form of declaration of identity, covering envelope and ballot paper envelope.

4. The numbers of all the said ballot papers shall be marked on the form of declaration of identity and on the ballot paper envelope, and any reference in the Representation of the People Order to the number on that declaration and the number on that envelope agreeing with one another, or with the number of the ballot paper, shall (subject to the next following paragraph) be construed accordingly.

5. Where, on the opening of the absent voters ballot boxes, the returning officer finds that the numbers on a declaration of identity agree with the numbers on some but not all of the relevant ballot papers he shall—

- (a) make out a copy of the declaration and deal with the copy as if it were an original declaration relating only to the votes not rejected, except that he shall endorse thereon the words "votes rejected except as to ballot papers Nos. . . ."; and
- (b) endorse the original declaration with the same words and thereafter deal with it as if it related only to the votes rejected. [176]

SECOND SCHEDULE

PART I

TIMETABLE FOR PREPARATION OF REGISTER, ETC.

On or before fourteenth day from initiation of election.	Making of applications for registration in business premises register.
On or before twentieth day	Publication of civilian residence electors list.
	Publication of notice as to mode of making claims and objections.
On or before twenty-fourth day ..	Publication of business premises electors list.
	Making of applications by members of forces to vote by post.
On or before twenty-seventh day ..	Making of claims and objections to civilian residence electors list.
	Making of applications to be entered in absent voters list.
On or before twenty-ninth day	Making of claims and objections to business premises electors list.
On or before thirty-fourth day ..	Consideration of claims and objections.
On or before fortieth day	Preparation of absent voters list and service postal list.

Note.—Under s. 1 of the Act of 1943 the register for an election is to be published (except in certain constituencies) on the thirty-sixth day after the initiation; under s. 2 of that Act nomination day need in no case be earlier than the forty-fourth day after the initiation.

PART II

PERIODS DURING WHICH DOCUMENTS MUST BE KEPT PUBLISHED

<i>Document</i>	<i>Period of publication</i>
Notice inviting applications for registration in business premises register.	Until the end of the last day for making such applications.
Electors lists, and corrupt and illegal practices list as first published.	Until publication of register.
Notice as to mode of making claims and objections.	Until the end of the last day for making claims and objections.
Register	Until conclusion or abandonment of election. [177]

THIRD SCHEDULE

Forms

PART I

Forms for use by registration officers

FORM A: NOTICE AS TO BUSINESS PREMISES APPLICATIONS

REPRESENTATION OF THE PEOPLE ACTS

Election in the Constituency.

Initiated on

Applications for inclusion in the Business Premises Register

Any person wishing to be registered in the Business Premises Register for the above election and having the necessary qualifications should make an application to me in the prescribed form.

The qualifying date for the election is and the qualification depends on occupation of Business Premises of the yearly value of not less than ten pounds in the constituency on that date. The husband or wife of a person so qualified is also entitled to be registered.

Forms of application may be obtained from me at the address below and must be returned to me at that address, on or before

Signed
Electoral Registration Officer.

Address

Date

Note 1.—A person making application to be registered in the Business Premises Register, knowing that the application contains a false statement, is liable to heavy penalties.

2. A person is not entitled to be registered as an elector twice in the same constituency at the same election.

FORM B: NOTICE AS TO MAKING CLAIMS AND OBJECTIONS

REPRESENTATION OF THE PEOPLE ACTS

*Notice as to the making of claims and objections**Civilian Residence and Business Premises Electors Lists*

Constituency of

Registration Units {
.....
.....

I hereby give notice that claims and objections in respect of the Civilian Residence electors lists for the registration units mentioned above must be received by me at the address below on or before and that claims and objections in respect of the Business Premises electors lists for those units must be received on or before

No special form is required for this purpose but :—

1. A claim should set out clearly the qualification which it is considered exists, and, if it relates to the Civilian Residence electors list, must give the claimant's national registration number; and an objection must specify clearly the grounds of objection to a registration. Both must be signed by the claimant or objector.

2. As an objection can only be made by a person who is himself on one of the electors lists, the name of the list in question and the qualifying address of the objector must be set out in the notice of objection.

3. If a notice is sent by post, postage must be prepaid.

Signed
Electoral Registration Officer.

Address

Date

[*Note.—Except where the registration officer acts for part only of the constituency, it shall be sufficient for the notice to refer to “all registration units,” without further specifying them.*]

FORM C : PROXY PAPER (CIVILIAN)

REPRESENTATION OF THE PEOPLE ACTS

Proxy paper : *Civilian Residence } Register.
Business Premises }

Constituency

Polling District

Name

Address

is hereby appointed as proxy for

Name of elector

who is qualified to be registered as a parliamentary elector in respect of

Qualifying address

to vote for such elector at the parliamentary election initiated on.....

Signature of Electoral Registration Officer.....

Date

Note 1. The person appointed as proxy should carefully preserve this paper which should if possible be produced to the Presiding Officer at the polling booth.

2. As a proxy you must vote in person at the polling station for the qualifying address of the person who has nominated you as proxy.

FORM D : PROXY PAPER (SERVICE)

REPRESENTATION OF THE PEOPLE ACTS

Proxy Paper (Service Register).

Constituency

Polling District

(Name)

(Address)

is hereby appointed as proxy for

(Name of elector)

who is qualified to be registered as a parliamentary elector in respect of

(Qualifying address)

to vote for such elector at all parliamentary elections for the above constituency whilst this proxy paper remains in force.

Signature of Electoral Registration Officer

Date

Note 1. The person appointed as proxy should carefully preserve this paper which should if possible be produced to the Presiding Officer at the polling booth.

2. As a proxy you must vote in person at the Polling Station for the qualifying address of the person who has nominated you as proxy *unless* for any election you make an application to be entered on the Absent Voters List in respect of

* Delete where inapplicable.

your own vote in that constituency. If you make such an application you may at the same time claim to vote by post in respect of your vote as proxy.

3. Your appointment as proxy will continue indefinitely and be valid for any election for which a register is prepared under the wartime procedure, unless it is cancelled by the voter, or he applies to vote by post at the election ; in either of these events you will be notified.

PART II

Forms for use by service voters

[*Note.—The cancellation of a service declaration or war worker's declaration automatically cancels also any proxy appointment made by virtue of that declaration.*]

FORM A : COMBINED FORM OF SERVICE DECLARATION AND APPLICATION FOR ISSUE OF PROXY PAPER BY MEMBER OF FORCES

Front

PART 1.

ELECTORAL REGISTRATION (ARMED FORCES)

(If you are a British subject and declare to an address in Great Britain or Northern Ireland, these particulars are to enable you to vote, if or when you are 21 or over, at a parliamentary election for the constituency containing the address declared to.)

I HEREBY DECLARE THAT I :—

Surname..... Service.....

(BLOCK CAPITALS)

Christian Names.....

Service No. (if any)..... Rank or Rating

Am a British subject, and

*Am } 21 years of age or over.
*Am not }

*(If under 21 years of age) was born on.....

Day	Month	Year
:	:	:

and reside or but for my service would reside at :—

(Full postal address)

I hereby cancel and previous declaration made by me.

Signed Date.....

Signature of Attesting Officer

Rank Ship, Regt. or Unit

Back

PART 2.

PROXY APPOINTMENT

(If you desire to appoint a proxy to vote for you in your absence, fill in this form.)

I HEREBY CANCEL ANY PREVIOUS PROXY APPOINTMENT MADE BY
ME AND APPOINT AS MY PROXY :—

Names of First Choice

(BLOCK CAPITALS)

Postal Address of First Choice

Relationship, if any, of First Choice to Elector

OR IF HE OR SHE IS UNABLE OR UNWILLING TO ACT

Names of Second Choice

(BLOCK CAPITALS)

Postal Address of Second Choice

Relationship, if any, of Second Choice to Elector

Signed

* Cross out inapplicable words.

**FORM B : COMBINED FORM OF SERVICE DECLARATION AND APPLICATION FOR
ISSUE OR PROXY PAPER BY SEAMAN**

Front

PART 1.

ELECTORAL REGISTRATION (SEAMEN)

(If you are a British subject and declare to an address in Great Britain or Northern Ireland, these particulars are to enable you to vote, if or when you are 21 or over, at a parliamentary election for the constituency containing the address declared to.)

I HEREBY DECLARE THAT I :—

Surname
(BLOCK CAPITALS)

Christian Names

Dis. A. No. Rank or Rating

Am a British subject, and

*Am } 21 years of age or over.
*Am not }

*(If under 21 years of age) was born on.....

Day	Month	Year
:	:	:

and reside or but for my service would reside at :—

(Full postal address)

I hereby cancel any previous declaration made by me.

Signed..... Date

Signature of Person Attesting

Qualification

Back

The back of this form shall be the same as the back of Form A.

FORMS C & D : SEPARATE FORMS OF SERVICE DECLARATION

The form to be used by a member of the forces or a seaman for making a service declaration without at the same time applying for the issue of a proxy paper shall be the front of Form A or Form B, as the case may be.

**FORMS E & F : SEPARATE FORMS OF APPLICATION FOR ISSUE OF PROXY PAPER
BY MEMBER OF FORCES OR SEAMAN**

The form to be used by a member of the forces or a seaman for making an application for the issue of a proxy paper without at the same time making a service declaration shall be Form A or Form B, as the case may be, leaving blank that part of the front after the space for the applicant's rank or rating except for the applicant's qualifying address.

FORM G : FORM OF APPLICATION FOR ISSUE OF A PROXY PAPER BY WAR WORKER

This form shall be the same as the back of Form A. The application may be combined in the same document with a war worker's declaration, but where not so combined, shall also state the war worker's full name and national registration number, and the address given as his residence in his war worker's declaration or the constituency for which the application is made.

FORMS H AND I : SEPARATE FORMS OF CANCELLATION OF SERVICE DECLARATIONS

The form to be used by a member of the forces or a seaman for cancelling a service declaration without at the same time making a new service declaration shall be the front of Form A or Form B, as the case may be, leaving blank that part of the form after the space for the declarant's rank or rating except for the declarant's qualifying address and signature and the date.

* Cross out inapplicable words.

FORMS J, K AND L : SEPARATE FORMS OF NOTICE OF CANCELLATION OF
PROXY APPOINTMENT

The form to be used by any person for giving notice that he cancels a proxy appointment made by him shall be the same as the separate form appropriate in his case for the making of an application for the issue of a proxy paper, leaving blank so much of that form as relates to the person to be appointed proxy.

FORM M : SERVICE POSTAL VOTER'S APPLICATION

REPRESENTATION OF THE PEOPLE ACTS

Application by a member of the forces in the United Kingdom to vote by post

I, Surname (1).....

(BLOCK CAPITALS)

Christian names

request that a ballot paper in respect of the coming election be sent to me at

.....

(give full postal address)

I have previously completed an Armed Forces Declaration Card for

.....

(give address of civilian residence which you gave when completing AFB 2626

S 1300B

RAF Form 2040).

Signed Date

Witnessed by (2).....

Address (3)

.....

Note (1). If you have changed your name since completing { AFB 2626
put your old name in brackets after your present name. { S 1300B
{ RAF Form 2040.

(2) The witness must be a person who knows you and if a member of the forces should state his or her ship, regiment or unit.

(3) If the witness is in the forces he should not give his address, but should state his number (if any) and his ship, regiment or unit.

(4) If the address of the Electoral Registration Officer is not known, this application should be addressed to the Town and County which you gave as your address on your armed forces declaration card.

PART III

Forms for use by other persons

FORM A : BUSINESS PREMISES APPLICATION

REPRESENTATION OF THE PEOPLE ACTS

Application to be registered in Business Premises Register

To the Registration Officer for the constituency of.....

1. Name of applicant

(a) surname (in block capitals) (a)

(b) christian names (in full) (b)

State whether the application is made as "occupier," or as husband or wife of occupier.

2. Christian names in full of applicant's husband or wife (if this application is made also on his or her behalf or if he or she was the occupier).

<p>3. Particulars of premises occupied on qualifying date (see note 3).</p> <p>(a) full postal address</p> <p>(b) business, trade or profession, then carried on there by applicant, or by applicant's husband or wife, as occupier.</p> <p>(c) yearly value if separately rated. (The yearly value is in England or Wales, the gross value for rating purposes ; in Scotland, the gross annual value as shown in the valuation roll : in Northern Ireland, the rateable value. If not separately rated, say so, and fill in paragraph 4 below.)</p> <p>(d) were the premises occupied jointly with other persons ? If so state—</p> <p>(i) the number of joint occupiers</p> <p>(ii) whether they were partners carrying on their business, trade or profession there, and, if not partners, their names.</p>	<p>(a)</p> <p>(b)</p> <p>(c)</p> <p>(d)</p> <p>(i)</p> <p>(ii)</p>
<p>4. Particulars of yearly value of premises not separately rated :</p> <p>(a) if the premises are in England or Wales and are rated with other premises specify the other premises together with the total gross value for rating purposes ;</p> <p>(b) if the premises are in England or Wales but are not rated, either—</p> <p>(i) give the amount of the Schedule A assessment of the premises for income tax ; or</p> <p>(ii) if the premises are assessed under Schedule A with other premises, specify the other premises together with the total amount of the assessment ;</p> <p>(c) if neither sub-paragraph (a) nor sub-paragraph (b) applies state shortly nature and extent of premises.</p>	<p>(a)</p> <p>(b)</p> <p>(i)</p> <p>(ii)</p> <p>(c)</p>
<p>5. Has any other application been made at this election for the registration in the business premises register—</p> <p>(a) of the present applicant, or</p> <p>(b) of the present applicant's husband or wife (if the present application is made also on his or her behalf) ?</p> <p>If so, give the address or addresses of the premises in respect of which the other application or applications were made.</p>	<p>(a)</p> <p>(b)</p>
<p>6. If</p> <p>(a) the applicant ; or</p> <p>(b) the applicant's husband or wife (if this application is made on his or her behalf) ;</p> <p>held a civilian identity card with an address in the constituency on the qualifying date, or had on that date made a service declaration or a war worker's declaration at an address in the constituency, state the address and (if a civilian identity card was held) also the national registration number.</p> <p>(See note 4.)</p>	<p>(a)</p> <p>(b)</p>

DECLARATION

I declare that the above particulars are, to the best of my knowledge and belief, true and correct in all respects; that on the qualifying date I was a British subject and had attained the age of twenty-one years *(and that on that date the person named as such above was my wife/husband and had also attained that age).

I apply on behalf of myself †(and my wife/husband) to be registered in the business premises register for the election now pending.

Signature

Date.....

NOTES

1. You are required to fill up the whole of this form so far as applicable to your case. The form must be completed and returned to the Electoral Registration Officer within 14 days from the initiation of the election.

2. Any person making an application to be registered in the Business Premises Register, knowing that the application contains a false statement, is liable to heavy penalties.

3. The qualifying date for an election is the last day of the month next but one before that in which the election is initiated. The qualifying date and the date of initiation are given in a notice published in the constituency by the Electoral Registration Officer and inviting applications to be registered in the Business Premises Register.

4. A person is not entitled to be registered as an elector twice in the same constituency at the same election.

LIVERYMEN

If, in a constituency where a list of liverymen is prepared, the applicant or his wife or her husband is qualified and wishes to be entered on that list, that fact should be stated below (with particulars of the qualification) and the statement signed by the applicant.

.....

* Strike out, if the applicant applies as occupier and application is not made also on behalf of his wife or her husband.

† Strike out if inapplicable.

FORM B : ABSENT VOTER'S APPLICATION

REPRESENTATION OF THE PEOPLE ACTS

Claim to be placed on Absent Voters List

To the Registration Officer for the Constituency of.....

Address

I, (names in full).....

being a person { *for whose registration in the Business Premises Register an application is or has been made
 * [entered] [claiming to be entered] on the Civilian Residence electors list

for the above constituency in respect of qualifying premises at (give postal address stating registration unit where possible).....

hereby claim to be placed upon the absent voters list on the ground that there is a probability that owing to my occupation (service) (employment) as.....

I may be debarred from voting at a poll at the pending parliamentary election for the above constituency.

[*An application for the issue of a proxy paper (see note 3) accompanies this form.]

[*I am not applying to vote by proxy and in the event of this claim being allowed, I also claim to vote by post in respect of my vote as proxy for the following service voters :

Name

Qualifying address

Name

Qualifying address

Date Signed

Address to which ballot paper is to be sent {
(if different from address stated above) {

If this form is sent to the Electoral Registration Officer by post, postage must be prepaid.

Note 1. The names and addresses of additional service voters may be attached to this form.

2. A person cannot claim both to vote by proxy himself and to vote by post as proxy for a service voter. The claim to vote by post in respect of a vote as proxy can only be allowed in cases where the qualifying address of the person who has appointed the proxy is in the constituency in which the proxy is claiming to vote as an Absent Voter.

3. If there is a probability that at the time of an election you will be at sea or out of the United Kingdom you may make an application to appoint a proxy to vote for you at that election. For this purpose a Proxy application form should be completed and should accompany this form.

* Delete where not required.

FORM C : PROXY APPLICATION (CIVILIAN)

Front

REPRESENTATION OF THE PEOPLE ACTS

Proxy Application Form

(This form which is for use by persons applying to be entered on the Absent Voters List, must accompany the elector's application to be entered on that list.)

See instructions on other side.

To the Registration Officer—

The Elector must insert here his surname and other names in full.

I hereby state that there is a probability that I shall, at the time of the Parliamentary election now pending, be at sea or out of the United Kingdom, and that I desire to appoint as proxy to vote for me at that election the person nominated below as First Choice or (if he or she is not qualified or is unwilling to act) the person nominated below as Second Choice.

Person to be appointed Proxy (see footnote).

1. The Elector must fill this up.

Names of First Choice
Postal Address of First Choice
Relationship, if any of }
First Choice to Elector }

2. The Elector should fill this up, as the First Choice may be unwilling or not qualified to act.

Names of Second Choice
Postal Address of Second Choice
Relationship, if any, of }
Second Choice to Elector }

I apply for the issue of a proxy paper appointing as my proxy the person, or one of the persons, nominated above.

The Form must be properly signed, witnessed and dated.	}	Signature of Elector.....
State nature of occupation, e.g. commercial traveller.		Occupation of Elector
The Witness must be a person to whom the Elector is known.	}	Witnessed by
If Witness is in the Forces, state number (if any), ship, unit and corps, rank, rating, etc.		Service or occupation of Witness.....
This need not be given if Witness is in the Forces and Service particulars are given.	}	Postal Address of Witness.....
	
		Date.....

WHO MAY BE PROXIES :—A person to be proxy must be a British subject of full age and not subject to any legal incapacity. If the person appointed proxy is not the wife, husband, parent, grandparent, brother or sister of the elector, the person cannot vote as proxy for more than two electors at an election in any constituency.

Back

REPRESENTATION OF THE PEOPLE ACTS

Instructions to Persons desiring to appoint proxies to vote at Parliamentary Elections

1. ABSENT VOTERS.—Electors whose occupation, etc., may prevent them attending the polling place to vote at a particular election may have their names placed on the absent voters list on making claims for the purpose.

A ballot paper will be sent to an absent voter in this Country who has not appointed a proxy, so that he may vote by post, but ballot papers cannot be sent to addresses outside the United Kingdom.

2. WHO MAY APPOINT A PROXY.—If you are applying to be entered for a particular election on the absent voters list and there is a probability that you will, at the time of election, be at sea or out of the United Kingdom, you can make an application to the Registration Officer in the form on the other side for the appointment of a proxy to vote for you at the Parliamentary election. This application *must* accompany your absent voter's application.

3. POWERS OF A PROXY.—A person appointed as proxy will be able to vote on your behalf at the Parliamentary election pending. You will not be able to vote yourself at that Parliamentary election. The proxy should produce at the polling place the proxy paper issued by the Registration Officer entitling him to vote for you.

Neither the Registration Officer nor the election officials can be responsible for the way in which your proxy votes. It is for you to give your proxy any instructions you think necessary as to the way in which he is to vote on your behalf.

4. WHO MAY BE APPOINTED PROXY.—A person to be proxy must be a British subject of full age and not subject to any legal incapacity. If the person appointed proxy is not the wife, husband, parent, grandparent, brother or sister of the elector, the person cannot vote as proxy for more than two electors at an election in any constituency.

5. HOW TO APPOINT A PROXY.—In the application the elector must insert his own name and the name of the person whom he desires to nominate as proxy. It

is desirable that the name of a second person should be inserted, as the first may not be qualified or willing to act. The elector must sign the application in the presence of a witness to whom he is known, and the witness must also sign the form and state his address.

A proxy paper issued in accordance with the application will be sent by the Registration Officer direct to the person appointed as proxy, so that it may be available for use without delay.

6. DURATION OF APPOINTMENT.—A proxy paper will only remain in force for the parliamentary election pending at the time of its issue. [178]

THE NATIONAL REGISTRATION (CIVILIAN RESIDENCE REGISTER) REGULATIONS, 1944

S. R. & O., 1944, No. 1180

October 10, 1944

In exercise of the powers conferred on us by the National Registration Act, 1939, and by the Parliamentary Electors (War-time Registration) Acts, 1943 and 1944, and of all other powers enabling us in that behalf, acting jointly, we hereby make the following regulations :—

1.—(1) These regulations may be cited as the National Registration (Civilian Residence Register) Regulations, 1944.

(2) These regulations shall come into operation on the day on which the order appointing the appointed day is made.

(3) The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

(4) In these regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

- (a) “ the Act of 1918 ” means the Representation of the People Act, 1918, as amended by any subsequent enactment or Order in Council ;
- (b) “ the Act of 1943 ” means the Parliamentary Electors (War-time Registration) Act, 1943, as amended by the Parliamentary Electors (War-time Registration) Act, 1944 ;
- (c) “ the appointed day ” means the day appointed by the Secretary of State for the purposes of the Act of 1943 ;
- (d) “ electoral registration officer ” means a registration officer for the purposes of the Act of 1918 and includes his duly appointed deputy for electoral registration purposes ;
- (e) “ electoral registration area ” means a registration area for the purposes of the Act of 1918 and, in relation to an electoral registration officer, means the area for which he is the electoral registration officer ;
- (f) “ constituency ” has the same meaning as in the Act of 1918 ;
- (g) “ war worker ” means a person who is for the time being registered as a person engaged in war work abroad ;
- (h) “ local area ” means, in relation to England and Northern Ireland, the area of a borough or of an urban or rural district, and, in relation to Scotland, the area of a large burgh within the meaning of the Local Government (Scotland) Act, 1929, or the area of a county excluding any such burgh therein ;
- (i) “ the Register ” and “ the Registrar-General ” have the same respective meanings as in the National Registration Act, 1939 ;
- (k) “ local national registration officer ” means an officer appointed under regulation 17 of the National Registration Regulations, 1939 ;

- (l) "registered address" has the meaning assigned to it by regulation 2 of the National Registration Amendment Regulations, 1940 ;
- (m) "notice of removal" means a notice given in pursuance of regulation 19 of the National Registration Regulations, 1939 ; and
- (n) "departure address" means, in relation to a registered person in respect of whom a notice of removal has been given, his registered address immediately prior to the giving of the notice of removal.

[179]

2.—(1) Subject to the provisions of these regulations, upon the happening of any of the following events, that is to say, where—

- (a) a person becomes a registered person ; or
- (b) a registered person, according to the particulars recorded in respect of him in the Register, attains the age of twenty-one years or becomes a British subject ; or
- (c) a registered person ceases to be registered as usually resident outside the United Kingdom or to be a war worker ; or
- (d) a person ceases to be a registered person or becomes a war worker ; or
- (e) an entry is made in the Register recording that a registered person has ceased to be a British subject, or is usually resident outside the United Kingdom, or has died ; or
- (f) an entry is made in the Register recording that a registered person has changed his name ;

the local national registration officer for the local area within which the registered address of the person is situate shall give notice of the event to the electoral registration officer concerned.

(2) A notice for the purposes of paragraph (1) of this regulation shall be given on a form provided by the Registrar-General and shall specify in all cases the name as registered and the registered address of the person to whom the notice relates and the event of which notice is given and also—

- (a) in a case falling within subparagraph (a) of the said paragraph (1), the reason why the person was not already registered and the date of his registration ;
- (b) in a case falling within subparagraph (b) or subparagraph (c) thereof—
 - (i) where a person attains the age of twenty-one years, the date on which he is recorded in the Register as attaining that age ;
 - (ii) in any other such case, the date on which the event notified was recorded in the Register ;
- (c) in a case falling within subparagraph (d) or subparagraph (e) thereof, the date on which the event was recorded in the Register ;
- (d) in a case falling within subparagraph (f) thereof, the name as registered of the person immediately prior to the change of name.

(3) Notice shall not be given under paragraph (1) of this regulation of an event relating to a person who, both immediately before and immediately after the event, either—

- (a) according to the particulars recorded in the Register in respect of him, had not attained the age of twenty-one years ; or
- (b) according to such particulars was not a British subject ; or
- (c) was a war worker ; or
- (d) was registered as usually resident outside the United Kingdom.

[180]

3.—(1) Subject to the provisions of these regulations, where a registered person gives notice of removal from or to a place of residence outside Great Britain and Northern Ireland, or is recorded in the Register, in pursuance of

paragraph (6) of regulation 19 of the National Registration Regulations, 1939, as having changed his place of residence from his registered address to a place outside Great Britain and Northern Ireland, the local national registration officer for the local area to or from which the removal takes place shall give notice accordingly to the electoral registration officer concerned.

(2) Subject to the provisions of these regulations, where a registered person gives notice of removal from one place of residence in Great Britain or Northern Ireland to another place of residence therein, the local national registration officer for the local area in which the person's registered address is situate and, if his departure address is situate in another local area, the local national registration officer for that other local area shall give notice accordingly to the electoral registration officer concerned ;

Provided that if the departure address and the registered address are situate in the same local area in England and that local area is included in two or more electoral registration areas, such notice shall, subject to any arrangements to the contrary made between the proper officer of the council of the county borough or county district which forms the local area and the local national registration officer, be given in duplicate.

(3) A notice given under paragraph (1) or paragraph (2) of this regulation by a local national registration officer shall be given on a form provided for the purpose by the Registrar-General and shall specify—

- (a) the name as registered and, except where the removal is to a place of residence outside Great Britain and Northern Ireland, the registered address of the person to whom the notice relates ;
- (b) except in the case of a removal from a place of residence outside Great Britain and Northern Ireland, the departure address of the person ;
- (c) the date on which the notice of removal, or, as the case may be, the entry in the Register in pursuance of paragraph (6) of regulation 19 of the National Registration Regulations, 1939, took effect ;
- (d) whether or not the removal was from a place of residence in the same local area ; and
- (e) in the case of a removal from a place of residence in a local area in Scotland to a place of residence in another local area in Scotland, the address of the person as last entered on his identity card at the time when notice of removal was given :

Provided that in a case where a registered person gives notice of removal from a place of residence in a local area in Great Britain or Northern Ireland to a place of residence in another local area therein, subparagraph (b) of this paragraph shall not apply to a notice given by the local national registration officer for the last mentioned local area.

(4) This regulation shall not apply in the case of a removal by a person who at the date of the notice of removal was a war worker, or was registered as usually resident outside the United Kingdom, or, according to the particulars recorded in the Register in respect of him, either was not a British subject, or had not attained the age of twenty-one years. [181]

4. A notice given by the local national registration officer for a local area in England in pursuance of these regulations shall—

- (a) in the case of a local area which forms part of more than one electoral registration area, and
- (b) in the case of any other local area, if and so long as the electoral registration officer concerned requests or has requested in writing that information for the purposes of the Act of 1943 be so sent,

be sent to the proper officer of the council of the county borough or county district which forms the local area ; and in any such case references in these

regulations to the electoral registration officer shall (except in regulation 5) be construed as references to such proper officer. [182]

5. An electoral registration officer on receiving a notice sent in pursuance of these regulations relating to a person whose registered address or, as the case may be, whose departure address is not situate within his electoral registration area shall forthwith send the notice to the electoral registration officer for the electoral registration area within which he believes that address to be situate. [183]

6. Any document which is required by these regulations to be sent to any officer may be sent to him by post addressed to him at his office. [184]

7.—(1) In their application to Northern Ireland these regulations shall have effect subject to the modifications hereafter specified in this regulation.

(2) Any reference to an enactment of the Parliament of the United Kingdom shall be construed as a reference to that enactment as it applies to Northern Ireland.

(3) For references to a local national registration officer, or to the local national registration officer for any local area, there shall be substituted references to the central national registration officer for Northern Ireland.

(4) For references to an electoral registration officer, except references in paragraph (4) of regulation 1 and the first such reference in regulation 5, there shall be substituted references to such of the officers mentioned in paragraph (b) of subsection (3) of section 5 of the Act of 1943 as may be concerned; and the first reference to an electoral registration officer in the said regulation 5 shall be construed as including a reference to such of the officers mentioned in the said paragraph (b) as may be concerned.

(5) Regulation 5, as modified by this regulation, shall have effect, except in its application to an electoral registration officer, as if after the words " send the notice " there were inserted the words " to the central national registration officer for Northern Ireland, who shall as soon as may be forward it ".

(6) Subparagraph (d) of paragraph (3) of regulation 3, and the proviso to that paragraph, shall not apply in the case of a notice of removal from a place of residence in a local area in Northern Ireland to a place of residence in another local area therein. [185]

8. The National Registration (Civilian Residence Register) Regulations, 1943, are hereby revoked but without prejudice to anything duly done or suffered or to any right, obligation or liability acquired, accrued or incurred thereunder. [186]

* * * *

**DETERMINATION, DATED OCTOBER 18, 1944, BY THE
SECRETARY OF STATE OF THE APPOINTED DAY
FOR THE PURPOSES OF THE PARLIAMENTARY
ELECTORS (WAR-TIME REGISTRATION) ACT, 1943
(6 & 7 GEO. 6, c. 48)**

S. R. & O., 1944, No. 1191

In pursuance of section 22 of the Parliamentary Electors (War-Time Registration) Act, 1943, I hereby fix the first day of December, 1944, as the appointed day for the purposes of the said Act. [187]

* * * *

ELECTRICITY SUPPLY

See, also, FACTORIES.

	PAGE		PAGE
ORDERS, CIRCULARS AND MEMORANDA :—		Electricity (Factories Act) Special Regulations, 1944—see FACTORIES.	
Electricity Minimum Charges Order and General Direction, 1944 — — — — —	90	CASES :—	
Account's General Direction and Order, 1944—see GAS.		Egham and Staines Electricity Co., Ltd. v. Egham Urban District Council—see ACTIONS BY AND AGAINST LOCAL AUTHORITIES.	

THE ELECTRICITY MINIMUM CHARGES ORDER AND GENERAL DIRECTION, 1944

S. R. & O., 1944, No. 61

January 17, 1944

In pursuance of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf the Minister of Fuel and Power hereby orders and directs as follows :—

1. The Electricity Minimum Charges Order and General Direction, 1942, shall have effect in respect of all periods mentioned in Article 2 (2) thereof ending on or after the first day of February, 1944, as if in Article 2 (1) for the words “twenty-five shillings”, “eighteen shillings and ninepence”, “twelve shillings and sixpence” and “six shillings and threepence”, wherever they appear, there were respectively substituted the words “ten shillings”, “seven shillings and sixpence”, “five shillings” and “two shillings and sixpence.” [188]

2. This Order and General Direction may be cited as the Electricity Minimum Charges Order and General Direction, 1944. [189]

* * * * *

Note to S. R. & O., 1944, No. 61.—*Under the Electricity Minimum Charges Order and General Direction, 1942, the charges which, under what is commonly known as the flat-rate tariff, electricity undertakers were authorised to make to their consumers for any amount of units up to a given number supplied in a quarter were abolished. In lieu thereof, where the total sum for the units actually consumed at the authorised rate per unit did not amount to 25s. in a year, or to 18s. 9d., 12s. 6d. and 6s. 3d. in respect of specified periods of less than a year, undertakers were allowed to charge up to 25s., 18s. 9d., 12s. 6d. or 6s. 3d., as the case might be.*

Under art. 1 of the Electricity Minimum Charges Order and General Direction, 1944, the annual charge in respect of all periods mentioned in art. 2 (2) of the previous Order and General Direction ending on or after February 1, 1944, will be 10s. in lieu of 25s. and 7s. 6d., 5s. and 2s. 6d. will be substituted for 18s. 9d., 12s. 6d. and 6s. 3d. respectively.

Neither of the above-mentioned Orders and General Directions affects what are known as the all-in or two-part tariffs.

EXPLOSIVES

See REGULATED INDUSTRIES.

FACTORIES

ORDERS, CIRCULARS AND MEMORANDA :—

PAGE

Electricity (Factories Act) Special Regulations, 1944— - - - - 91

ORDERS, CIRCULARS AND MEMORANDA

THE ELECTRICITY (FACTORIES ACT) SPECIAL REGULATIONS, 1944

S. R. & O., 1944, No. 739

June 12, 1944

Whereas on the 23rd day of December, 1908, the Secretary of State by virtue of the powers conferred upon him by the Factory and Workshop Act, 1901, made Regulations (hereinafter referred to as "the principal Regulations") with respect to the generation, transformation, distribution and use of electrical energy (hereinafter referred to as "the said processes") in factories and workshops and in places to which the provisions of Section 79 of that Act were applied by that Act ;

And whereas the Minister of Labour and National Service (hereinafter referred to as "the Minister") is satisfied that, save as hereinafter provided, the said processes and certain other processes in relation to the use of electrical energy in factories and in other premises, places, processes, operations and work to which the provisions of Part IV of the Factories Act, 1937, with respect to special regulations for safety and health are applied by that Act are of such a nature as to cause risk of bodily injury to persons employed in connection therewith, that is to say the said processes and also the processes of converting and of switching, controlling or otherwise regulating electrical energy in factories and such other premises, places, processes, operations and work as aforesaid, and that it is desirable that the principal Regulations should be extended and should otherwise be amended in manner hereinafter appearing ;

Now, therefore, the Minister by virtue of the powers conferred upon him by Section 60 of the Factories Act, 1937, the Defence (Functions of Ministers) Regulations, 1941, and of all other powers in that behalf hereby makes the following Special Regulations :—

1. These Regulations may be cited as the Electricity (Factories Act) Special Regulations, 1944, and shall come into force on the First day of August, 1944, and these Regulations and the principal Regulations may be cited together as the Electricity (Factories Act) Special Regulations, 1908 and 1944. [190]

2. The principal Regulations shall extend and apply to the generation, transformation, conversion, switching, controlling, regulating, distribution and use of electrical energy in any factory and in any premises, place, process, operation or work to which the provisions of Part IV of the Factories Act, 1937, with respect to special regulations for safety and health are applied by that Act. [191]

3. The paragraphs in the principal Regulations relating to exemptions shall have effect as if at the end thereof there were inserted the following paragraph :—

"8. Nothing in these Regulations shall apply to apparatus, other than portable apparatus, forming part of the permanent electrical installation of a building, structure, ship or place by reason only that the apparatus, or the installation of which it forms part, is used for the lighting of any

building operation or work of engineering construction or work in a ship to which the provisions of Section 105 (2) or Section 106 of the Factories Act, 1937, apply or for the supply of electrical energy for the purposes of any such operation or work." [192]

4. Regulation 18 of the principal Regulations (which relates to switchboards for high pressure or extra high pressure) shall have effect as if the following paragraph were substituted for paragraph (d) thereof :—

"(d) When any work is done on any switchboard for high pressure or extra high pressure the switchboard shall be made dead unless—

- (1) the section of the switchboard on which the work is done (hereinafter referred to as "the relevant section") is made dead and every other section which is live is either
 - (i) so separated from the relevant section by permanent or removable divisions or screens as not to be a source of danger to persons working on the relevant section, or
 - (ii) in such a position or of such construction as to be as safe as if so separated as aforesaid ; or
- (2) the switchboard itself is so arranged as to secure that the work is done without danger without taking any of the precautions aforesaid." [193]

* * * * *

Note as to S. R. & O., 1944, No. 730.—*These Regulations relate to the safety precautions required in connection with the use of electrical energy.*

The principal Regulations, made in 1908, are now in certain aspects out of date. The main object of the new Regulations is to bring them up to date by applying them (under powers given by s. 60 of the Factories Act, 1937) to additional electrical processes and also to additional places, operations and works, particularly as regards work on ships, building operations and works of engineering construction ; they would not in general apply to the use for such work of non-portable apparatus forming part of the permanent electrical installation of the ships, buildings, etc.

The new Regulations also make a drafting amendment in reg. 18 of the principal Regulations with the object of removing a difficulty of interpretation to which attention was called in recent proceedings in the High Court. It appeared that, as previously worded, the Regulations would permit work on a dead section of a switchboard in dangerous proximity to a live section, if the live section could be screened off so as to prevent danger but is not so screened off in fact.

FINANCE

STATUTES :—	PAGE	CASES :—	PAGE
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Finance Act, 1944	95	[1944] 1 All E. R. 273, D. C.	98
ORDERS, CIRCULARS AND MEMORANDA :—		Re Hurle-Hobbs Decision, [1944] 2	
Defence (General) Regulations, 1939, Regulation 68D	96	All E. R. 261 ; <i>sub nom.</i> Surridge v. Hurle-Hobbs, 42 L. G. R. 285, C. A.	98
Further Regulations, dated November 10, 1944, made by the Public Works Loan Commissioners	97	Ostme v. Pontypridd and Rhondda Joint Water Board, [1944] 2 All E. R. 237	99

STATUTES

THE PUBLIC WORKS LOANS ACT, 1944

(7 & 8 Geo. 6, c. 16)

PRELIMINARY NOTE

The objects of this Act are threefold :—

- (1) To authorise the issue of a sum or sums up to a total of £15,000,000 out of the Local Loans Fund for the purposes of local loans during a period which will end when a further Act for a similar purpose comes into force. So far as the grant of loans is concerned, therefore, the Act will operate for a temporary, but unspecified, period (s. 1, *post*).

- (2) To enable certain local loans to be written off, and to remit certain arrears of principal and interest in respect of the Eyemouth Harbour Board (ss. 2, 3 and the Schedule, *post*).
- (3) To enable the functions of the secretary of the Public Works Loan Commissioners to be performed, in the event of his inability to act, by an assistant secretary.

The Act follows the general form of a series of annual Acts which supplement the Public Works Loans Acts, 1875 to 1898, by placing sums of money at the disposal of the Public Works Loan Commissioners for the purpose of advances, appointing Commissioners, etc., when necessary, and by authorising the entire or partial remission of interest or capital, or both, to debtors unable to meet their engagements. [194]

An Act to grant money for the purpose of certain local loans out of the Local Loans Fund and for other purposes relating to local loans, and to enable the functions of the secretary of the Public Works Loan Commissioners to be performed, in the event of his inability to act, by an assistant secretary. [195]

[21st March, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Grants for public works.—(1) There may be issued by the National Debt Commissioners for the purpose of local loans by the Public Works Loan Commissioners any sum or sums not exceeding in the whole the sum of fifteen million pounds. [196]

(2) The sums so issued shall be issued during a period ending on the day on which a further Act granting money for the purposes of those loans comes into operation, and in accordance with the provisions of the National Debt and Local Loans Act, 1887. [197]

National Debt Commissioners.—The National Debt and Local Loans Act, 1887, provides for the issue of funds by the National Debt Commissioners to the Public Works Loan Commissioners for the purposes of local loans.

Local loans.—Any person or body (including local authorities) having power under an Act of Parliament or otherwise to borrow for any of a large number of purposes may apply to the Public Works Loans Commissioners for a loan in connection therewith; see the Public Works Loans Acts, 1875 to 1898, and subsequent legislation on the same subject.

Public Works Loans Commissioners.—See s. 4 of the Public Works Loans Act, 1875. The Commissioners were last reappointed for a period of five years by the Public Works Loans Act, 1941.

2. Certain debts not to be reckoned as assets of the Local Loans Fund.—Whereas it is expedient that the principal of the several local loans specified in the tables contained in Part I and Part II of the Schedule to this Act should, to the extent specified in the last column of those tables, not be reckoned as assets of the Local Loans Fund established under the National Debt and Local Loans Act, 1887 :

Now, therefore, the principal of the said loans to the extent aforesaid shall be written off from the account of assets of the Local Loans Fund, and the provisions of section fifteen of the said Act shall, so far as applicable, apply thereto. [198]

Object of section.—This section is in the form normal to the Public Works Loans Acts and authorises the writing off of certain items of principal forming parts of loans granted by the Commissioners.

3. Remission of arrears of principal and interest in respect of Eyemouth Harbour Board.—Whereas in pursuance of an agreement made in the year eighteen hundred and ninety-two the sum of ten thousand pounds was advanced by the Public Works Loan Commissioners to the Eyemouth

Harbour Trustees on the security of the harbour revenues with the collateral security of the Fishery Board for Scotland :

And whereas by an arrangement confirmed by section three of the Public Works Loans Act, 1901, the liability of the Eyemouth Harbour Trustees in respect of the said loan was extinguished without prejudice to the liability of the Fishery Board for Scotland to repay the said loan, and, in consequence thereof, the said collateral security is the sole security for the repayment of the said loan :

And whereas the terms of the said collateral security are embodied in a memorandum of agreement between the Secretary for Scotland and the Public Works Loan Commissioners, dated the eleventh day of March, eighteen hundred and ninety-two, whereby a portion of the surplus herring brand fees, as defined in clause three of the said memorandum, was pledged in security for the repayment of the said loan with interest by the instalments and at the times mentioned in the security given by the Eyemouth Harbour Trustees for the said loan, and it was provided that the said portion of the surplus herring brand fees of any one year should only be applicable to the repayment of the one-fiftieth part of principal and interest on outstanding principal falling due under the security for the said loan in the same year, and should not be applicable to the repayment of arrears of principal :

And whereas the said portion of the surplus herring brand fees so pledged as aforesaid was, during the years ending the thirty-first day of March, nineteen hundred and forty-one, the thirty-first day of March, nineteen hundred and forty-two, and the thirty-first day of March, nineteen hundred and forty-three, respectively, insufficient to discharge in full the instalments of principal with interest which fell due under the security for the said loan in those years and the principal sum of four hundred and fifty-seven pounds (the balance outstanding of the said loan) with interest amounting to twenty-five pounds one shilling now remains unpaid, and under the terms of the said memorandum of agreement is irrecoverable :

Now, therefore, the said principal sum of four hundred and fifty-seven pounds shall be extinguished, and the said arrears of interest amounting to twenty-five pounds one shilling shall be remitted. [199]

Object of section.—This is a section of purely local importance by which an item of principal forming part of a loan made to the Eyemouth Harbour Trustees in 1892 is written off and the outstanding interest remitted.

4. Performance of functions of secretary of Public Works Loan Commissioners, in event of illness, etc., by assistant secretary.—(1) If and so long as it appears to the Public Works Loan Commissioners that their secretary is through illness, absence or other sufficient cause unable to act, they may authorise any of their assistant secretaries to perform all or any of the functions of their secretary, and anything done by an assistant secretary in pursuance of any such authority shall have the same effect as if done by the secretary. [200]

(2) Where anything is done by an assistant secretary of the said Commissioners in purported exercise of the powers conferred by this section, he shall be presumed, unless and until the contrary is shown, to have acted in pursuance of an authority duly given under this section by the said Commissioners. [201]

Object of section.—This section enables the Public Works Loan Commissioners to authorise an assistant secretary to perform all or any of the functions of their secretary for any period during which the latter is, through illness, absence or other sufficient cause, unable to act.

Public Works Loan Commissioners.—See notes to s. 1, ante.

5. Short title.—This Act may be cited as the Public Works Loans Act, 1944. [202]

SCHEDULE

PART I

LOAN BY THE PUBLIC WORKS LOAN COMMISSIONERS UNDER THE HARBOURS AND PASSING TOLLS, ETC., ACT, 1861

Name of borrower.	Amount of loan.	Amount to be written off.
	£	£
Eyemouth Harbour Trustees	10,000	457

PART II

LOANS BY THE PUBLIC WORKS LOAN COMMISSIONERS UNDER THE AGRICULTURAL CREDITS ACT, 1923 (INCLUDING ADVANCES UNDER PARAGRAPH (4) OF SECTION TWENTY-TWO OF THE PUBLIC WORKS LOANS ACT, 1875).

Name of borrower.	Amount of loan.	Amount to be written off.
	£	£ s. d.
Mr. David Collins	5,854	5,043 5 9
Mr. Thomas Eynon	6,975	520 14 5
Mr. Herbert Howson	4,650	211 12 5
Mr. Morton Jack	4,900	289 16 10
Mr. Harry Luker (deceased)	6,145	856 2 10
Mr. William Taylor Malcolm	14,594	1,654 11 1
Colonel Norman Martyn	2,231	583 16 10
Mr. Percy Stops (deceased)	5,000	211 9 10

[203]

THE FINANCE ACT, 1944

(7 & 8 Geo. 6, c. 23)

PRELIMINARY NOTE

Two minor matters of interest to local authorities are dealt with (*inter alia*) in the Finance Act, 1944 :—

- (1) The necessity to take out licences and the excise duties chargeable in respect of armorial bearings and the keeping of carriages and hackney carriages are repealed as from January 1, 1945 (s. 6, *post*).
- (2) S. 7, *post*, repeals s. 7 of the Dog Licences Act, 1867, and ss. 20 and 21 of the Revenue Act, 1869 (both as originally enacted and as amended or applied by any subsequent enactment). These sections dealt with church-door notices and the provision of forms respectively. [204]

* * * * *

An Act to grant certain duties, to alter other duties, and to amend the law relating to the Public Revenue and the National Debt, and to make further provision in connection with Finance. [205] [13th July, 1944.]

* * * * *

6. Repeal of armorial bearings and carriage duties.—(1) The duties of excise chargeable under the Revenue Act, 1869, in respect of armorial bearings and the Customs and Inland Revenue Act, 1888, in respect of carriages and hackney carriages, respectively, shall cease to be chargeable, and no

licence shall be required to be taken out under the first-mentioned Act in respect of the wear or use of armorial bearings or the keeping of a carriage or hackney carriage. [206]

(2) This section shall come into operation on the first day of January, nineteen hundred and forty-five. [207]

Revenue Act, 1869.—Ss. 18 and 19 of the Revenue Act, 1869, granted excise duties in respect of armorial bearings and required licences to be taken out by persons wearing or using armorial bearings. By s. 20 of the Local Government Act, 1888, the duties on armorial bearings were made local taxation duties, and by s. 6 of the Finance Act, 1908, and S. R. & O., 1908, No. 844, the power to levy those duties was transferred to county councils in England and Wales. See also S. R. & O., 1922, No. 213.

Customs and Inland Revenue Act, 1888.—S. 4 of the Customs and Inland Revenue Act, 1888, granted certain excise duties in respect of hackney carriages and required licences to be taken out by persons keeping or using a hackney carriage. By s. 1 (1) of the Roads Act, 1920, county councils were made responsible for levying duties under this section.

7. Repeal of provisions as to church-door notices and provision of forms.—Section seven of the Dog Licences Act, 1867, and sections twenty and twenty-one of the Revenue Act, 1869 (both as originally enacted and as amended or applied by any subsequent enactment) are hereby repealed. [208]

Dog Licences Act, 1867, s. 7.—This section required the Commissioners of Inland Revenue to exhibit notices on church doors stating where dog licences could be obtained; by S. R. & O., 1908, No. 844, the duty of issuing such notices was transferred to county councils.

Revenue Act, 1869, ss. 20, 21.—S. 20 required the Commissioners of Inland Revenue to exhibit, on or before January 1 in each year, notices on church doors setting out the duties payable upon licences required to be taken out under that Act, and stating from whom forms of declaration could be obtained, etc. S. 21 required the Commissioners to issue forms of declaration, etc., to persons applying for them. By S. R. & O., 1908, No. 844, the duties of the Commissioners were transferred to county councils, and both sections were applied, by s. 5 (6) of the Roads Act, 1920, to certain purposes of that Act.

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 68D TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 1312

November 23, 1944

* * * * *

After Regulation 68c of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation—

“ Holiday Resorts

* 68D.—(1) The Minister of Health may, with a view to securing that the efficient prosecution of the war and the maintenance of supplies and services essential to the life of the community are not prejudiced by a deficiency of proper holiday facilities, authorise the council of any borough, urban district or rural district which, on the twenty-fourth day of August, nineteen hundred and thirty-nine, was or comprised a coastal holiday resort on or near the east coast of England, south of the Humber, or on or near the south coast of England, to lend to any person who, on the said date, was carrying on any business in its area, a sum not exceeding, or sums not in the aggregate exceeding, one hundred and fifty pounds, for the purpose of enabling him to carry on again or better to carry on that business in its area, if it is of opinion that the making of the loan or, as the case may be, of the loans will assist the rehabilitation of that resort.

(2) Where any such authority is given, the powers exercisable by virtue thereof shall be exercised subject to such general conditions as the Minister of Health may determine, and any loan made in the exercise of those powers shall, subject to any such general conditions as aforesaid, be for such period and on such terms as may be agreed between the council and the person to whom the loan is made.

(3) In this Regulation, the expression 'coastal holiday resort' includes any holiday resort the attraction of which was, in the opinion of the Minister of Health, to a substantial degree due to or connected with its proximity to the sea or any arm thereof." [209]

* * * * *

FURTHER REGULATIONS, DATED NOVEMBER 10, 1944, MADE BY THE PUBLIC WORKS LOAN COM- MISSIONERS

S. R. & O., 1944, No. 1251

November 10, 1944

1. The Secretary or Assistant Secretary to the Public Works Loan Commissioners (hereinafter referred to as "the Loan Commissioners") shall from time to time certify to the National Debt Commissioners the amount required by the Loan Commissioners for the purposes of advances to be made under Section 9 of the Public Works Loans Act 1875 and the date on which such advances are to be made. [210]

2. There shall be established a Public Works Loans (Advances) Account at the Bank of England under the control of the Loan Commissioners. Upon receipt of any such certificate as aforesaid the National Debt Commissioners shall, on or before the day upon which the advances are due to be made, pay from the Local Loans Fund to the said Public Works Loans (Advances) Account the sum specified in that certificate. Provided that the sum so paid together with amounts previously issued from the Local Loans Fund for the purpose of loans by the Loan Commissioners shall not at any time in the aggregate exceed the amount authorised by Parliament to be so issued. [211]

3. Subject to the provisions of Regulations 1 and 2 being complied with as respects any such certificate as aforesaid the Secretary, or Assistant Secretary to the Loan Commissioners, shall sign orders to the Cashiers of the Bank of England for payment out of the said Public Works Loans (Advances) Account to each of the agents specified in the certificate the amount of the advances which he is authorised to receive and the signature of each of the said agents shall be a sufficient discharge to the Governor and Company of the Bank of England. [212]

4. Before delivery of any orders signed in pursuance of Regulation 3 to the agent named therein that agent shall pay at the office of the Loan Commissioners the amount of the fees prescribed by regulations made on the 30th day of August 1926 or any amendment thereof as payable on any advance, or instalment of an advance, to which the order relates together with the amount of stamp duty thereon, and the further amount, if any, of disbursements in respect thereof and the receipts for any such amounts shall be signed by the officer in charge of the accounts, or in his absence by such person as may be nominated by the Secretary or Assistant Secretary to the Loan Commissioners. [213]

5. These Regulations shall come into force on the 1st day of December 1944 and on that date the Regulations made on the 28th day of November 1939 and the 9th Regulation made on the 1st day of April 1876 under the Public Works Loans Act 1875 shall be rescinded. [214]

* * * * *

CASES

District audit—Production of documents—Failure to comply with notice—Subpœna ad testificandum and duces tecum—Exclusion of right thereto—Local Government Act, 1933, s. 225 (1), (2).

The Local Government Act, 1933, s. 225, conferred powers on a district auditor to require the production before him of all books and documents necessary for the purpose of the audit. Neglect or refusal to comply with such requirement was made punishable summarily by a fine not exceeding £2. A district auditor of the London audit district requested the applicant to attend before him at the audit of the London County Council accounts and to produce certain documents which the applicant had in his possession relating to the trading accounts and profit and loss accounts of a firm for which the applicant acted as accountant. The applicant did not comply with the notice and was, on prosecution, ordered to pay the maximum penalty. The district auditor then served the applicant with a further notice to attend which was also ignored. Thereupon the district auditor applied to the Crown Office for a subpœna *ad testificandum* and *duces tecum* to compel the attendance of the applicant. The Master of the Crown Office granted the subpœna. On a motion to set aside the subpœna it was contended on behalf of the applicant that the legislature having provided a special sanction by the Local Government Act, 1933, s. 225 (2), the powers exercisable by the King's Bench Division were thereby excluded:—

Held: the legislature, having prescribed by the Local Government Act, 1933, s. 225 (1), a duty and having provided by sect. 225 (2) a penalty for the non-performance of that duty, must be taken to have excluded resort to that aid by way of subpœna which the King's Bench Division might lend to an inferior tribunal.

Pasmore v. Oswaldtwistle Urban Council, [1898] A. C. 387, applied.—*R. v. HURLE-HOBBS, Ex p. SIMMONS*, [1945] K. B. 165; [1944] 1 All E. R. 273, D. C. [215]

Local Government—Audit—Surcharge on councillors—Contract to dispose of refuse—Decision to increase remuneration of contractor—Whether the contractor is a person “aggrieved”—Local Government Act, 1933 (c. 51), ss. 228 (1), 229.

In 1940, F. W. S. was, by reason of a contract which had two years to run, under an obligation to the Lambeth Borough Council to collect and dispose of refuse in the borough for a fixed sum per annum. In Feb., 1940, he applied to the council for additional remuneration on the ground of increased costs due to the war. The borough council considered the matter and then agreed to make an additional payment to the contractor for the two remaining years of the contract. The additional sum was arrived at by calculating the increased costs of the contractor omitting the increase in wages. The contractor agreed that during the remainder of the term of the contract he would not ask for any further increases. The district auditor disallowed the additional payments as contrary to law within the meaning of the Local Government Act, 1933, s. 228 (1) (a), and surcharged them on

the councillors responsible for the decision. It was contended on behalf of the auditor (i) that the council did not make an adequate investigation of the contractor's accounts; (ii) that the council ought to have anticipated a decrease in the amount of the refuse to be disposed of by reason of certain statistics; (ii.) that the council should have arranged for an adjustable figure to be paid to the contractor; (iv) that the contractor was not a person "aggrieved" within the meaning of the Local Government Act, 1933, s. 229, and, therefore, had no *locus standi* in the matter:—

Held: (i) the council made such investigation of the accounts as was possible having regard to their nature and, as they had acted *bona fide* with the interests of the ratepayers in view and with reasonable business acumen having regard to the circumstances before them at the time, the additional payments made to the contractor were not unlawful.

(ii) the contractor's legal rights were not affected by the disallowance by the auditor and he was, therefore, not a person "aggrieved" within the meaning of the section.—*Re HURLE-HOBBS DECISION*, [1944] 2 All E. R. 261; 108 J. P. 200; *sub nom.* *SURRIDGE v. HURLE-HOBBS*, 42 L. G. R. 285, C. A. [216]

Income Tax—Trade receipt—Sums received by water board under precepts issued to constituent authorities—Sums provided out of general rate—Whether trade receipt—Income Tax Act, 1918 (c. 40), Sched. D, Case 1.

Income Tax—Trade expenses—Sums paid by water board to body of which it is constituent member—Sums part of price payable for water supplied to board's own consumers—Whether allowable as deductions—Income Tax Act, 1918 (c. 40), Sched. D, Case 1.

The respondent board was a joint water board which was authorised by statute to supply water direct to consumers in the district of its 2 constituent authorities and to sell water in bulk to the water undertakings in 2 more districts. In the event of an estimated deficit in its net revenue for any year the board was authorised to issue precepts to its 2 constituent authorities apportioning between them the sum needed to meet the deficit and requiring them to pay out of their general rate funds the amounts so apportioned. In the event of either authority making default in payment, the respondent board was empowered to meet the deficiency by itself levying a rate in the district of such authority. The respondent board itself was required year by year to pay an amount similarly apportioned to it under precept to the T. F. board of which it was a constituent authority and from which it purchased in bulk some of the water from which it supplied its own consumers. It was contended for the Crown that, in the computation of the profits of the board for the purposes of income tax, the amounts received under precepts and the amounts paid under precepts should be included as trading receipts and trading expenses respectively, or, alternatively, that, if the receipts under precepts were not to be included, then the sums paid by the board pursuant to the precepts issued to it ought also to be excluded from computation:—

Held: (i) moneys received by the board under precepts formed part of its income within the meaning of the Income Tax Acts.

(ii) money paid by the board under precepts was an expense incurred in earning its income.

Decision of MACNAGHTEN, J. ([1944] 1 All E. R. 185), *reversed on the first point.*—*OSTIME v. PONTYPRIDD AND RHONDDA JOINT WATER BOARD*, [1944] 2 All E. R. 237; 171 L. T. 211; 108 J. P. 253; 60 T. L. R. 552; 42 L. G. R. 293, C. A. [217]

FIRE PROTECTION

See, also, AIR-RAID PRECAUTIONS

STATUTES :—	PAGE		PAGE
Police and Firemen (War Service) Act, 1944—see POLICE.		National Fire Service (Employment Overseas) Regulations, 1944	102
National Fire Service Regulations (Indemnity) Act, 1944	100	National Fire Service (General) Regulations, 1944	106
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Defence (National Fire Service) Regulations, 1941, Regulation 2 amended	102		

STATUTES

NATIONAL FIRE SERVICE REGULATIONS (INDEMNITY) ACT, 1944

(7 & 8 Geo. 6, c. 35)

PRELIMINARY NOTE

This Act was passed for the purpose of regularising the position resulting from the failure of the Home Secretary to lay before Parliament at the proper time certain Regulations made by him under the powers conferred by s. 1 of the Fire Services (Emergency Provisions) Act, 1941. By s. 2 of that Act, s. 8 (1) and (2) of the Emergency Powers (Defence) Act, 1939, were applied to Regulations under the 1941 Act as they apply to Orders in Council containing Defence Regulations. In consequence all Regulations under the 1941 Act must be laid before Parliament as soon as may be after they are made, and either House may annul any such Regulations by resolution passed within twenty-eight days after the Regulations are laid before it, and the operation of s. 1 of the Rules Publication Act, 1893, is excluded.

It was found in 1944 that certain Regulations made under the 1941 Act had not in fact been laid before Parliament and this Indemnity Act is the result. [218]

An Act to grant an indemnity in respect of the failure to lay before Parliament certain regulations made under the Fire Services (Emergency Provisions) Act, 1941, as soon as may be after they were made. [219] [3rd August, 1944.]

Whereas in exercise of the powers conferred on a Secretary of State by section one of the Fire Services (Emergency Provisions) Act, 1941, the regulations specified in the Schedule to this Act were made upon the dates respectively mentioned in that Schedule :

And whereas it is provided by the said Act that all regulations made thereunder shall be laid before Parliament as soon as may be after they are made and that if either House of Parliament within the next twenty-eight days on which that House has sat after any such regulation is laid before it resolves that the regulation be annulled, the regulation shall thereupon cease to have effect :

And whereas by reason of inadvertence the regulations specified in the said Schedule were not laid before either House of Parliament until the twenty-sixth day of July, nineteen hundred and forty-four, but were laid before both Houses on that date :

Now, therefore, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Indemnity.—The Secretary of State is hereby freed, discharged and indemnified from and against all consequences whatsoever, if any, incurred or to be incurred by him by reason of the said failure to lay before Parliament the regulations specified in the Schedule to this Act as soon as may be after they were made, and those regulations shall be deemed to have been duly laid before Parliament in accordance with the requirements of the statute under which they were made. [220]

Effect of section.—This section is divided into two parts. The first indemnifies the Home Secretary against the consequences of any breach of statutory duty which may have existed as a result of his failure to lay before Parliament certain Regulations made under the Fire Services (Emergency Provisions) Act, 1941, "as soon as may be" after they were made. The second provides that the Regulations shall be deemed to have been laid before Parliament "as soon as may be" although not in fact laid until July 26, 1944, shortly before the passing of the Act.

2. Short title.—This Act may be cited as the National Fire Service Regulations (Indemnity) Act, 1944. [221]

SCHEDULE

National Fire Service (General) Regulations, 1941, dated 5th August 1941 (S.R. & O. 1941 No. 1134) ;

National Fire Service (Alteration of Fire Areas) Regulations, 1941, dated 31st October 1941 (S.R. & O. 1941 No. 1710) ;

National Fire Service (General) Regulations, 1942, dated 14th January 1942 (S.R. & O. 1942 No. 69) ;

National Fire Service (General) (No. 2) Regulations, 1942, dated 22nd January 1942 (S.R. & O. 1942 No. 125) ;

National Fire Service (General) (No. 3) Regulations, 1942, dated 8th May 1942 (S.R. & O. 1942, No. 883) ;

National Fire Service (General) (No. 4) Regulations, 1942, dated 20th May 1942 (S.R. & O. 1942 No. 987) ;

National Fire Service (General) (No. 5) Regulations, 1942, dated 4th September 1942 (S.R. & O. 1942 No. 1848) ;

National Fire Service (Alteration of Fire Areas) Regulations, 1942, dated 12th September 1942 (S.R. & O. 1942 No. 1871) ;

National Fire Service (Preservation of Pensions) Regulations, 1942, dated 24th November 1942 (S.R. & O. 1942 No. 2519) ;

National Fire Service (General) (No. 6) Regulations, 1942, dated 17th December 1942 (S.R. & O. 1942 No. 2638) ;

National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1942, dated 18th December 1942 (S.R. & O. 1942 No. 2639) ;

National Fire Service (General) Regulations, 1943, dated 16th January 1943 (S.R. & O. 1943 No. 93) ;

National Fire Service (Alteration of Fire Areas) Regulations, 1943, dated 25th January 1943 (S.R. & O. 1943 No. 129) ;

National Fire Service (General) (No. 2) Regulations, 1943, dated 22nd March 1943 (S.R. & O. 1943 No. 461) ;

National Fire Service (General) (No. 3) Regulations, 1943, dated 19th July 1943 (S.R. & O. 1943 No. 1012) ;

National Fire Service (Alteration of Fire Areas) (No. 2) Regulations, 1943, dated 3rd August 1943 (S.R. & O. 1943 No. 1119) ;

National Fire Service (General) (No. 4) Regulations, 1943, dated 5th August 1943 (S.R. & O. 1943 No. 1151) ;

National Fire Service (Preservation of Pensions) Regulations, 1943, dated 19th August 1943 (S.R. & O. 1943 No. 1221) ;

National Fire Service (General) (No. 5) Regulations, 1943, dated 15th September 1943 (S.R. & O. 1943 No. 1333) ;

National Fire Service (Alteration of Fire Areas) Regulations, 1944, dated 11th February 1944 (S.R. & O. 1944 No. 141) ;

National Fire Service (Alteration of Fire Areas) (No. 2) Regulations, 1944, dated 14th March 1944 (S.R. & O. 1944 No. 285) ;

National Fire Service (Alteration of Fire Areas) (No. 3) Regulations, 1944, dated 22nd March 1944 (S.R. & O. 1944 No. 341) ;

National Fire Service (Employment Overseas) Regulations, 1944, dated 12th June 1944 (S.R. & O. 1944 No. 675). [222]

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING THE DEFENCE (NATIONAL FIRE SERVICE) REGULATIONS, 1941

S. R. & O., 1944, No. 584

May 18, 1944

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that at the end of Regulation two of the Defence (National Fire Service) Regulations, 1941 (which relates to the employment of the National Fire Service outside Great Britain and on work not usually undertaken by fire brigades), there shall be added the following paragraph :—

“(3) The said regulations may also make such provision as appears to the Secretary of State to be expedient in the interests of the efficient prosecution of any war in which His Majesty may be engaged for the employment of any such Service or Force in any part of Europe outside the United Kingdom and the Isle of Man, and as to the work on which it may be employed while serving in any such part of Europe as aforesaid, in addition to the extinction of fires, and the protection of life and property in case of fire :

Provided that no member of any such Service or Force who has not volunteered for service outside the United Kingdom and the Isle of Man shall by virtue of this paragraph be ordered to go overseas for the purpose of so serving.” [223]

* * * * *

THE NATIONAL FIRE SERVICE (EMPLOYMENT OVERSEAS) REGULATIONS, 1944

S. R. & O., 1944, No. 675

June 12, 1944

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the National Fire Service (Employment Overseas) Regulations, 1944.

(2) The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament. [224]

2.—(1) The National Fire Service may be employed, for the extinction of fires, and the protection of life and property in case of fire, in any part of Europe outside the United Kingdom and the Isle of Man where it appears to the Secretary of State that their employment will promote the success of any operations of war undertaken by His Majesty's forces :

Provided that no member of the National Fire Service shall by virtue of this Regulation be ordered to go overseas for the purpose of serving outside the United Kingdom and the Isle of Man unless he has volunteered for such service and is going as a member of a detachment of the National Fire Service accompanying His Majesty's military forces or going to join such a detachment.

(2) Any detachment of the National Fire Service serving in any such part of Europe as aforesaid may also be employed—

- (a) whether on land or on any ship or vessel at sea, on any work on which the National Fire Service may be employed while serving in Great Britain or on any work for similar purposes ; and
- (b) on any such other work intended to promote the success of operations of war undertaken by His Majesty's forces as may properly be performed by non-combatants.

(3) The reference in this Regulation to His Majesty's forces and to His Majesty's military forces shall respectively be construed as including references to any forces of a Power allied with His Majesty which are for the time being serving under the same commander-in-chief or supreme commander as any of His Majesty's forces and to the military forces of any such Power which are so serving. [225]

3.—(1) A member of an overseas detachment may be proceeded against for an offence against discipline committed or alleged to have been committed by him while such a member in accordance with the Schedule to these Regulations, instead of under Part II of the Second Schedule to the National Fire Service (General) Regulations, 1941, but shall not be tried for the same offence both under this paragraph and under the said Part II.

(2) The powers conferred by Part III of the said Second Schedule (which relates to suspension from duty and to the payment of suspension allowances) shall be exercisable, in the case of a member of an overseas detachment, by the Divisional Officer.

(3) Any reference in the provisions hereafter mentioned in this paragraph to a criminal offence shall include a reference to any offence against the Army Act, committed or alleged to have been committed by a member of an overseas detachment, and any reference therein to criminal proceedings shall be construed accordingly.

The provisions above referred to are Part III of the Second Schedule and paragraph 8 of the Third Schedule to the National Fire Service (General) Regulations, 1941, Regulation 8 (1) of the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941, Regulation 6 of the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941, Regulation 8 (1) of the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, Regulation 8 (1) of the National Fire Service (Preservation of Pensions) (London and West Ham) Regulations, 1941, Regulation 8 (1) of the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941, and Regulation 7 (1) of the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941.

(4) A member of an overseas detachment may, without prejudice to the power of ordering him to undergo medical examination under paragraph 6 of the Third Schedule to the National Fire Service (General) Regulations,

1941, be ordered to undergo at any time medical examination by a duly qualified medical practitioner who is a member of the Royal Army Medical Corps.

(5) A member of a Fire Force on becoming a member of an overseas detachment shall cease to be a member of the Fire Force.

(6) For the purposes of this Regulation and the Schedule to these Regulations—

(a) the expression "overseas detachment" means a detachment of the National Fire Service which is serving in any part of Europe outside the United Kingdom and the Isle of Man, or proceeding, or awaiting embarkation for the purpose of proceeding, to any such part of Europe, and a person having become a member of an overseas detachment shall be deemed to continue to be a member of an overseas detachment until he is posted to a Fire Force or other unit of the National Fire Service serving in Great Britain or is discharged or dismissed from the National Fire Service; and

(b) references to the Divisional Officer shall be construed, in relation to members of any overseas detachment, as references to the Divisional Officer from time to time commanding that detachment or any detachment of the National Fire Service of which that detachment forms part or any other officer of the National Fire Service designated by the Secretary of State as the commander of that detachment. [226]

* * * * *

SCHEDULE

Rules of procedure and punishments

1. Where, on consideration of a complaint or otherwise, the Divisional Officer decides that a fireman who is a member of an overseas detachment should be charged with an offence against discipline, being an offence as defined in the code set out in Part I of the Second Schedule to the National Fire Service (General) Regulations, 1941, the Divisional Officer shall as soon as possible cause him to be informed in writing of the charge together with such particulars, including details as to time and place, as will leave him under no misapprehension regarding the allegations against him.

2.—(1) The accused shall be ordered to state in writing whether he admits or denies the charge, and shall be allowed to give in writing any explanation which he may wish to offer.

(2) The accused shall be allowed to state the names and addresses of any witnesses to material facts whom he may desire to give evidence at the hearing of the charge.

(3) Any such witness who is a member of the National Fire Service shall, unless his attendance is dispensed with under sub-paragraph (4) of this paragraph, be ordered to attend at the hearing of the charge, and any witness who is not a member of the National Fire Service shall be given due notice that his attendance is desired and of the time and place of the hearing.

(4) Where it appears to the Divisional Officer that to require the attendance of any witness whom the accused desires to give evidence would unduly delay the hearing of the charge, he may, with the consent of the accused, dispense with the attendance of that witness, and in that case a written statement signed by the witness and tendered on behalf of the accused at the hearing of the charge shall be admissible as evidence of the facts stated therein.

3. If the accused denies the charge, he shall, unless the Divisional Officer is satisfied with the explanation which he has offered, be ordered to appear before the Divisional Officer at the hearing of the charge and be entitled to hear the evidence given against him and to have an opportunity of cross-examining the witnesses and of calling witnesses in his defence.

4. An offence against discipline may be punished under this Schedule with—

- (i) reduction in rank ;
- (ii) stoppage of pay ;
- (iii) additional duty ; or
- (iv) reprimand ;

Provided that—

- (a) a stoppage of pay in respect of any one offence shall not continue after the expiration of three months from the date of the award of the punishment and the amounts of any stoppages (whether in respect of one or more offences) shall not exceed in the aggregate in any week one-seventh of the weekly pay of the offender ; and
- (b) additional duty in respect of any one offence shall not exceed forty-eight hours, and in respect of one or more offences shall not exceed in any week twelve hours.

5. The Divisional Officer shall, as soon as may be after the determination of a charge by him, cause his decision to be notified in writing to the accused and his decision shall be final.

6. The Divisional Officer may delegate all or any of his functions under the foregoing provisions of this Schedule, either generally or in a particular case, to another member of an overseas detachment serving under him not below the rank of Column Officer or to a board consisting of two or more such members :

Provided that the powers of punishment of an officer or board to whom functions are delegated under this paragraph shall be subject to the following restrictions :—

(i) no punishment shall be imposed other than—

- (a) stoppage of pay ;
- (b) additional duty ; or
- (c) reprimand ;

(ii) the amount of any stoppage of pay imposed on an offender on the same occasion in respect of one or more offences shall not exceed twenty shillings, and the amount of additional duty imposed on an offender on the same occasion in respect of one or more offences shall not exceed twenty-four hours ; and

(iii) any punishment imposed shall not be carried out until it has been confirmed, with or without modifications, by the Divisional Officer, and for the purpose of proviso (a) of paragraph 4 of this Schedule the date of the confirmation shall be deemed to be the date of the award of the punishment.

(2) Any member of an overseas detachment who feels aggrieved by a decision of an officer or board to whom functions have been delegated under this paragraph awarding punishment shall, on giving notice in writing to the Divisional Officer within three clear days of the decision having been notified to him, be entitled to appear before the Divisional Officer to make representations against the confirmation of the punishment.

(3) Where a notice is given under sub-paragraph (2) of this paragraph, the power of the Divisional Officer to confirm the punishment with modifications shall extend to increasing it.

(4) Where it appears to the officer or board by whom any case is being heard under this paragraph that for any reason it may be desirable that the case should be heard by the Divisional Officer, the officer or board shall so inform the Divisional Officer and the Divisional Officer may direct either that the hearing shall be recommenced before him or that it shall be continued before the officer or board.

7. A member of an overseas detachment shall be allowed to have another member of an overseas detachment selected by himself to assist him in presenting his case at the hearing of a charge against him or in making representations under the last foregoing paragraph against the confirmation of a punishment :

Provided that—

- (a) where it appears to the Divisional Officer or to the officer or board appointed to hear a charge that the member selected to assist the accused cannot attend without undue delay, the accused shall be

- notified that he cannot have the assistance of that member and shall be allowed to select some other member in his stead ; and
- (b) the member selected to assist the accused in presenting his case at the hearing of a charge shall not be an officer of a rank equal or superior to that of the officer, or any of the officers, hearing the charge.

8. If a member of an overseas detachment refuses or without sufficient cause fails to attend at the time and place appointed for the hearing of any charge or for making representations against the confirmation of a punishment, or if at that time he is in legal custody, the matter may be decided in his absence. [227]

THE NATIONAL FIRE SERVICE (GENERAL) REGULATIONS, 1944

S. R. & O., 1944, No. 1077

September 16, 1944

In pursuance of the powers conferred upon me by the Fire Services (Emergency Provisions) Act, 1941, as amended by the Defence (National Fire Service) Regulations, 1941, I hereby make the following Regulations :—

PART I

Preliminary

1.—(1) These Regulations may be cited as the National Fire Service (General) Regulations, 1944.

(2) These Regulations shall come into operation on the twenty-sixth day of September, nineteen hundred and forty-four.

(3) In these Regulations—

the expression “ Fire Force Commander ” means, in relation to a Fire Force or any of the members thereof, the Fire Force Commander in command of that Force or the person (whatever his rank, if any, in the National Fire Service) by whom the functions of the Fire Force Commander in command of that Force are for the time being exercisable under Regulation 4 of these Regulations ;

the expression “ Region ” means a civil defence region as defined by the Defence (General) Regulations, 1939, and anything which is required to be done in relation to any Region for the purposes of these Regulations by, to or before the Regional Commissioner shall be done by, to or before the Regional Commissioner assigned to that Region under the Defence (General) Regulations, 1939, or, if more than one Regional Commissioner has been so assigned to the Region, by, to or before one of the Regional Commissioners so assigned thereto ; and

the expression “ Regional Commissioner ” means a person appointed by His Majesty to be a Regional Commissioner or deputy Regional Commissioner for the co-ordination of measures of civil defence.

(4) The Interpretation Act, 1889, applies for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

(5) Any reference in any document to these Regulations or to any of them shall, unless the contrary intention appears, be construed as a reference to these Regulations or to that Regulation, as amended by any subsequent Regulations made under the Fire Services (Emergency Provisions) Act, 1941, either as originally enacted or as amended by Defence Regulations.

2.—(1) Any of the powers of the Secretary of State under the subsequent provisions of these Regulations may, to such extent as the Secretary of State may from time to time direct and subject always to the terms of any such directions, be exercised by the Regional Commissioner.

(2) There may be appointed by the Secretary of State, in any Region, a Chief Regional Fire Officer and such other staff to assist the Regional Commissioner in the exercise of his functions under these Regulations as the Secretary of State may think fit.

(3) If the Secretary of State thinks fit so to direct as respects any Region, any powers conferred by these Regulations specifically on the Regional Commissioner shall either not be exercisable by the Regional Commissioner or be exercised by the Secretary of State instead of by the Regional Commissioner.

(4) The Regional Commissioner shall, both as respects the powers exercisable by him by virtue of paragraph (1) of this Regulation and as respects the powers specifically conferred upon him by the subsequent provisions of these Regulations, be subject to the direction of the Secretary of State. [229]

PART II

Maintenance and Organisation of National Fire Service

3.—(1) During the period of the present emergency, the National Fire Service shall be maintained in Great Britain on behalf of the Crown by the Secretary of State, for the extinction of fires, and the protection of life and property in case of fire, in Great Britain.

(2) The National Fire Service may also be employed—

- (a) for the extinction of fires, and the protection of life and property in case of fire, in Northern Ireland and the Isle of Man, and in ships and vessels at sea ;
- (b) whether in Great Britain or in Northern Ireland or the Isle of Man or on any ship or vessel at sea, for any rescue or salvage work for which their fire appliances are suitable ; and
- (c) on the construction or improvement of buildings or works in Great Britain used or intended for the purposes of the National Fire Service or for other civil defence purposes or on work for forestalling or mitigating the effects of enemy action or on any other work for any government department or connected with the performance of their functions by any local authority or harbour authority or with the performance by any undertakers of essential services.

In this paragraph the expression “undertakers” means the persons carrying on any public utility undertaking or any undertaking by way of any trade or business, and the expressions “local authority”, “harbour authority”, and “public utility undertaking” have the same meanings as in the Defence (General) Regulations, 1939. [230]

4.—(1) In each of the Fire Areas specified in the First Schedule to these Regulations, there shall be a Fire Force consisting of members of the National Fire Service.

(2) Each Fire Force shall be under the command of a Fire Force Commander who, subject to the direction of the Regional Commissioner (exercised either through the Chief Regional Fire Officer or otherwise) and of the Secretary of State, shall be in control, and responsible for the working and

efficiency, of his Force, and shall in particular, but without prejudice to the generality of the foregoing words,—

- (a) determine the number and position of the stations and depots to be maintained for the purposes of his Force and the number and nature of the personnel by which they are to be manned ;
- (b) post members of his Force to stations or depots so maintained and assign them their duties ;
- (c) be responsible for the operations, the training and the welfare of his Force ;
- (d) be responsible for the maintenance and care of equipment and appliances at the disposal of his Force.

(3) The Secretary of State may, as respects any Fire Force, if it appears to him to be expedient by reason of a vacancy or for any other reason, direct that for such period as may be specified in the directions all or any of the functions of the Fire Force Commander in command of the Force shall be exercisable by some other person, whether or not a member of the National Fire Service.

(4) In the event of a vacancy in the post of the Fire Force Commander in command of a Fire Force, or in the event of such a Fire Force Commander being unable to act owing to illness or absence, his functions shall, unless there is some person authorised and able to exercise them under paragraph (3) of this Regulation, be exercisable by such officer of the Force as may have been designated as his deputy by the Secretary of State, or if there is no such officer or if he is unable to act, by the senior officer who is a member of that Force and is able to act.

(5) Nothing in this Regulation shall be construed as requiring every member of the National Fire Service to be a member of one of the Fire Forces mentioned in this Regulation, and, in particular, such of the persons employed in England and Wales or, as the case may be, in Scotland, on duties in connection with central or Regional organisation or supply, or with inspection or training, as are members of the National Fire Service need not be members of any such Force. [231]

5.—(1) There shall be such Reserve Stations in Great Britain as appear to the Secretary of State to be necessary or expedient for supplementing the forces available at any place for dealing with fires, and for providing training for members of the National Fire Service.

(2) Each Reserve Station shall be under the command of a member of the National Fire Service, who shall be designated by the Regional Commissioner and shall be subject to the direction of the Regional Commissioner (exercised either through the Chief Regional Fire Officer or otherwise) and of the Secretary of State.

(3) Nothing in this or the last preceding Regulation shall prevent the Secretary of State from establishing such other stations for the purpose of providing reinforcements or training, or for any other special purpose, as he thinks fit, and those stations shall be under the command of such members of the National Fire Service, acting under the direction of such persons, as the Secretary of State may think fit. [232]

6.—(1) Members of the National Fire Service may be employed either whole-time or part-time, and, whether employed whole-time or part-time, may be firemen (or firewomen) with ranks in the National Fire Service or may be persons not holding any rank therein, and any references in these Regulations to a fireman shall, unless the context otherwise requires, be construed as a reference to a member, whether male or female, of the National Fire Service holding a rank therein.

(2) The ranks of male firemen shall be, in order of seniority, the following :—

Chief Regional Fire Officer.
Fire Force Commander.
Assistant Fire Force Commander.
Divisional Officer.
Column Officer.
Senior Company Officer.
Company Officer.
Section Leader.
Leading Fireman.
Fireman.

(3) The ranks of firewomen shall be, in order of seniority, the following :—

Regional Woman Fire Officer.
Area Officer.
Assistant Area Officer.
Group Officer.
Assistant Group Officer.
Senior Leading Firewoman.
Leading Firewoman.
Firewoman.

(4) The Secretary of State may create such additional ranks as he considers necessary and assign to them their seniority.

(5) A fireman shall obey the orders—

(a) of any fireman of superior rank, whether or not he belongs to the same or any Fire Force; and

(b) of any other person, whether or not a member of the National Fire Service, under whose orders he is placed by the Secretary of State, by the Regional Commissioner, by his Fire Force Commander (if any) or by any other person competent to give him orders. [233]

7.—(1) Persons may be appointed members of the National Fire Service—

(a) whether or not as firemen and whether or not as members of a Fire Force, by the Secretary of State; and

(b) as firemen in a Fire Force, by the Fire Force Commander.

(2) A fireman may be promoted—

(a) whether or not he is a member of a Fire Force, to any rank by the Secretary of State;

(b) if he is a member of a Fire Force—

(i) to be a Column Officer, Assistant Area Officer or Group Officer, by the Regional Commissioner; and

(ii) to any rank below that of Column Officer or Group Officer, by the Fire Force Commander; and

(c) if he is not a member of a Fire Force, to such rank as may from time to time be designated by the Secretary of State in relation to any particular case or class of cases by such person as may be so designated,

and any power conferred by this paragraph to promote to any rank includes a power to reduce from that rank to any lower rank:

Provided that a member of a Fire Force shall not be reduced from any rank under this paragraph by the Regional Commissioner without the concurrence of the Secretary of State or by the Fire Force Commander without

the concurrence of the Regional Commissioner except with his own consent or during his period of probation in that rank or on conviction of a criminal offence (including an offence against Regulation 9 (2) of these Regulations).

In this paragraph "period of probation" means, in relation to a fireman's service in any rank, the first six months of that service together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by a direction (which may be revoked by a subsequent direction) of any person having for the time being power under this paragraph to reduce him from that rank, but in calculating a fireman's period of probation in any rank there shall be disregarded any part of his service therein during which he is certified by any such person as aforesaid to have been employed on duties other than the normal duties of that rank.

(3) The promotion of a fireman to any rank may be expressed to be temporary only, and, if expressed to be temporary, may (without prejudice to any power conferred by these Regulations to reduce him from that rank) be cancelled at any time by any person having power to promote firemen to that rank under paragraph (2) of this Regulation; and for the purposes of the said paragraph (2) a fireman's period of probation in any rank shall not include service in that rank by virtue of a temporary promotion under this paragraph, but any such service shall be disregarded in calculating the said period.

(4) Any member of the National Fire Service may be discharged by the Secretary of State, and firemen in any Fire Force may also be discharged—

- (a) in the case of Column Officers, Assistant Area Officers and Group Officers, by the Regional Commissioner; and
- (b) in the case of ranks below Column Officer or Group Officer, by the Fire Force Commander:

Provided that—

- (i) a member of a Fire Force who has not attained the age of sixty years shall not be discharged by the Regional Commissioner under sub-paragraph (a) of this paragraph without the concurrence of the Secretary of State, or by the Fire Force Commander under sub-paragraph (b) of this paragraph without the concurrence of the Regional Commissioner, except with his own consent or during his period of probation; and
- (ii) nothing in this paragraph affects the provisions of the Second Schedule to these Regulations relating to dismissal for disciplinary offences.

In this paragraph "period of probation" means, in relation to any fireman, the first six months of his service together with such further period or periods (not exceeding in all a further twelve months) as may at any time before the end of his period of probation be added thereto by a direction (which may be revoked by a subsequent direction) of any person who has for the time being power under this paragraph to discharge him.

(5) A fireman—

- (a) may be appointed or transferred to or from any Fire Force by the Secretary of State either temporarily or permanently;
- (b) if he is a member of a Fire Force, may be temporarily posted by the Fire Force Commander to a Reserve Station or any other station established whether for training or other purposes:

Provided that the powers conferred by this paragraph shall not be exercised in relation to any part-time fireman without his consent. [234]

8.—(1) A whole-time fireman may be placed on reserve, either for a specified period or indefinitely, by the person having power to discharge him, and a fireman on reserve may be recalled to whole-time service, either for a specified period or indefinitely, by the person having the said power.

(2) Subject to the provisions of this Regulation, a fireman on reserve shall retain the rank which he held, and shall remain a member of the Fire Force (if any) of which he was a member, immediately before he was placed on reserve or, if he has been transferred by virtue of any Regulations made under the Fire Services (Emergency Provisions) Act, 1941, relating to the alteration of Fire Areas to another Fire Force, of that Fire Force, but shall not, while on reserve, have any of the powers or duties of a member of the National Fire Service or be entitled to pay, or to any other rights or privileges, as such a member :

Provided that nothing in this paragraph shall relieve a fireman on reserve of any liability for disobedience to an order recalling him to whole-time service or to any orders given to him by or on behalf of the person having power to discharge him as to the notification of his address or of the nature and place of his employment or business.

(3) A fireman on reserve may be required by the person having power to discharge him to perform the duties of a part-time fireman in any Fire Force and, subject to the provisions of this Regulation, these Regulations shall apply to him in relation to the performance of those duties as if he were a part-time fireman in that Fire Force :

Provided that the proviso to Regulation 9 (1) and Regulation 9 (5) of these Regulations shall not apply.

(4) Paragraphs (2) and (4) and, with the exception of sub-paragraph (b), paragraph (5) of Regulation 7 of these Regulations, shall apply to a fireman on reserve (whether or not he is required to perform part-time duties) as if he were not on reserve.

(5) In this Regulation references to the person having power to discharge a fireman shall be construed as references to any person who would with his consent have for the time being power under Regulation 7 of these Regulations to discharge him, and references to a fireman on reserve shall be construed as references to a fireman placed on reserve whether under this Regulation or under Regulation 7A of the National Fire Service (General) Regulations, 1941. [235]

9.—(1) Any fireman may be ordered to go, for any purpose connected with the execution of his duty, to any place in the United Kingdom or the Isle of Man, and, for the purpose of dealing with an actual outbreak of fire or for other rescue or salvage work for which the fire appliances of the National Fire Service are suitable, to any ship or vessel at sea :

Provided that a part-time fireman who was transferred as such to the National Fire Service by virtue of the National Fire Service (General) Regulations, 1941, shall not be required, without his consent, to serve in any place where he could not have been so required to serve if the Fire Services (Emergency Provisions) Act, 1941, had not been passed, and in no event shall any part-time fireman be required to go outside his own Fire Area without his consent.

(2) Any fireman who—

(a) disobeys any lawful order given to him as such ; or

(b) without reasonable excuse is absent from any place at a time when it is his duty as such to be there,

shall, on summary conviction, be liable to imprisonment for a term not exceeding one month, or to a fine not exceeding ten pounds, or to both such imprisonment and such fine :

Provided that this paragraph shall not apply to a part-time fireman who has not attained the age of eighteen years.

(3) Every fireman shall be subject to the provisions of the Second Schedule to these Regulations (which relates to discipline).

(4) A fireman shall continue as such in the National Fire Service unless dismissed or discharged therefrom in accordance with these Regulations, and any purported resignation shall be inoperative :

Provided that this paragraph shall not apply to a part-time fireman who has not attained the age of eighteen years.

(5) Notwithstanding anything in this Regulation, where—

- (a) a part-time fireman receives a direction under Regulation 58A of the Defence (General) Regulations, 1939, and
- (b) in order that he may be able to comply with that direction, it is necessary that he should go to live at a different place, and
- (c) the place to which he goes to live is so situated in relation to the places to which he is, as such part-time fireman, under an obligation to go, that it is not reasonably practicable that he should continue as a part-time fireman subject to that obligation,

he shall, as from the date when he goes to live at that place, cease to be a member of the National Fire Service.

(6) A fireman shall, by virtue of this Regulation and without more, be suspended from duty during any period of penal servitude, imprisonment or detention in a Borstal institution.

(7) Subject to the provisions of these Regulations, the provisions of the Third Schedule to these Regulations shall have effect as respects the pay and other conditions of service of firemen. [236]

10.—(1) The National Fire Service shall be a civil defence force for the purposes of the National Service Act, 1941, and accordingly any person called up, or liable to be called up, for civil defence under that Act may be required by a notice served thereunder to serve with the National Fire Service.

(2) A person required by any such notice to serve with the National Fire Service shall, so long as he is required so to serve, be a whole-time fireman therein, and these Regulations shall apply to him accordingly, and shall so apply in lieu of the provisions of paragraphs (c) to (i) of subsection (1) of section three of the National Service Act, 1941.

(3) Notwithstanding anything in these Regulations, a member of the National Fire Service who is serving therewith by virtue of a notice served on him under the National Service Act, 1941, may be served with a further notice thereunder requiring him to serve with some other civil defence force, and on the further notice taking effect shall cease to be a member of the National Fire Service.

(4) In the case of a person serving with the National Fire Service by virtue of a notice served on him under the National Service Act, 1941—

- (a) a discharge from the National Fire Service shall be deemed also to be a discharge from the service of the Crown under section three of the said Act ; and
- (b) a sentence of dismissal awarded for an offence against discipline shall, unless and until it is confirmed by the Secretary of State, operate only to suspend him from duty, and if the sentence is confirmed he shall be deemed also to have been discharged from the service of the Crown under the said section. [237]

PART III

Personnel and Property transferred from Local Authorities.

11. Where a person called up for civil defence under the National Service Act, 1941, has been transferred to the National Fire Service by virtue of the National Fire Service (General) Regulations, 1941, he shall for the purposes of subsection (1) of section three of that Act and of these Regulations be treated as having been served with a notice under paragraph (b) of that subsection notifying him that he is to serve with the National Fire Service. [238]

12.—(1) During the period of the present emergency any statutory obligation of a local authority to make provision for the extinction of fires and the protection of life and property in case of fire shall, save as provided in these Regulations, be suspended and accordingly their rights and obligations against such of the persons employed by them as have been transferred to the National Fire Service shall be similarly suspended subject, however, to the provisions of any Regulations made under the Fire Services (Emergency Provisions) Act, 1941, relating to preservation of pension rights and similar matters.

(2) During the period of the present emergency all property of a local authority which, by virtue of Regulation 15 (2) of the National Fire Service (General) Regulations, 1941, was taken for the purposes of the National Fire Service may, subject to any arrangements to the contrary made or to be made between the local authority and the Regional Commissioner, be used and dealt with in connection with the National Fire Service as if it were the property of the Crown :

Provided that, subject to the terms of any such arrangements as aforesaid or to any directions of the Regional Commissioner, the local authority shall continue to act in relation to the care and maintenance of any such property while it is being used by the National Fire Service as if the use thereof by the National Fire Service were the use thereof by the local authority's own fire brigade.

(3) Nothing in this Regulation shall render invalid any rights or obligations of any local authority, whether acquired or incurred under any statute or by contract or otherwise, notwithstanding that they were acquired or incurred for the purposes of their fire brigade, other than rights and obligations to which paragraph (1) of this Regulation applies ; and any obligation under any statute or trust to pay any sum or apply any fund towards the expenses of a local authority in providing a fire brigade shall continue as if the local authority still were providing that brigade, and as if any contributions by the local authority to the expenses of the National Fire Service were expenses of the local authority in providing that brigade ; and the local authority shall act in relation to any rights and obligations to which this paragraph applies in accordance with such directions as may be given to them by the Regional Commissioner.

(4) Without prejudice to the foregoing provisions of this Regulation, any local authority may make with the Secretary of State or the Regional Commissioner arrangements for the performance by the local authority or their officers, as agents, of such functions in connection with the National Fire Service as may be specified in the arrangements, or for rendering any property of the local authority available for the purposes of the National Fire Service, for whatever purpose that property was acquired or appropriated by them, and notwithstanding any restriction imposed on the use thereof, whether by any Act or instrument or otherwise.

(5) In this Regulation " fire brigade " means the London Fire Brigade or any fire brigade formerly maintained by a local authority under the Fire

Brigades Act, 1938, together with, in either case, any part of the Auxiliary Fire Service or of any Women's Auxiliary Fire Service formerly employed therewith. [239]

PART IV

Miscellaneous Provisions

13. All members of the National Fire Service are hereby declared to be fire personnel for the purposes of the Fire Services (Emergency Provisions) Act, 1941. [240]

14.—(1) The provisions of the Fire Brigades Act, 1938, set out, with adaptations and modifications, in the Fourth Schedule to these Regulations shall, as so set out, apply in relation to the National Fire Service and members thereof.

(2) During the period of the present emergency the provisions of sections thirty-eight, thirty-nine and forty-three of the Waterworks Clauses Act, 1847 (which require undertakers to provide and maintain fire hydrants), as incorporated with or applied by any enactment, with or without modifications, and as amended by or under subsection (2) of section two of the Fire Brigades Act, 1938, shall have effect as if for the references to the fire authority there were substituted references to the Regional Commissioner, and as if the distances and places at which fire hydrants are required to be placed were to be determined by the Regional Commissioner; and nothing in these Regulations shall affect the obligations of a fire authority under section forty of the Waterworks Clauses Act, 1847, as so incorporated or applied and as so amended.

(3) Notwithstanding anything in these Regulations a local authority shall continue during the period of the present emergency to perform their functions under section three of the Fire Brigades Act, 1938, so, however, that they shall perform those functions in accordance with such directions as may be given to them by the Regional Commissioner and that no person shall be entitled to appeal under the proviso to subsection (1) of that section without the consent of the Regional Commissioner. [241]

15. Notwithstanding anything in any enactment, it shall not be necessary for any member of a police force, who, on being transferred by virtue of the National Fire Service (General) Regulations, 1941, to the National Fire Service, ceased to be a constable and, within two months from the day when he ceases to be a member of the National Fire Service, resumes service as a constable, to make any declaration required to be made by him on accepting office as a constable. [242]

16. Where the Secretary of State is satisfied that a member of a police force or a person employed by a local authority, not being, in either case, a person transferred by virtue of the National Fire Service (General) Regulations, 1941, to the National Fire Service, has, by reason of those Regulations, suffered a loss of emoluments, the Secretary of State may, with the approval of the Treasury, make to him a periodical payment or a lump sum payment in respect of that loss. [243]

17. These Regulations shall in their application to the London Area (that is to say, the Area comprised in Fire Areas 34, 36, 37 and 38) have effect subject to the modifications set out in the Fifth Schedule to these Regulations. [244]

18.—(1) The Regulations set out in the Sixth Schedule to these Regulations are hereby revoked.

(2) Section thirty-eight of the Interpretation Act, 1889, shall apply as

if these Regulations were an Act of Parliament and as if any Regulations revoked by these Regulations were Acts of Parliament repealed by an Act of Parliament.

(3) Any authority, direction or notice given, appointment or designation made, power exercised or thing done under any Regulation revoked by these Regulations shall, if it is in force immediately before the coming into operation of these Regulations and could have been made, given, exercised or done under a provision of these Regulations, continue in force and be deemed to have been made, given, exercised or done under that provision.

(4) Any offence committed against the code of offences against discipline contained in Part I of the Second Schedule to the National Fire Service (General) Regulations, 1941, shall be deemed to have been committed against the code of offences against discipline contained in Part I of the Second Schedule to these Regulations.

(5) Any proceedings initiated, suspension ordered or punishment imposed under the Second Schedule to the National Fire Service (General) Regulations, 1941, as amended by any of the revoked Regulations, shall be deemed to have been initiated, ordered or imposed, as the case may be, under Parts II, III and IV of the Second Schedule to these Regulations.

(6) Any reference in any document to any Regulations revoked by these Regulations or any provision thereof shall, unless the contrary intention appears, be construed as a reference to these Regulations or the corresponding provision of these Regulations. [245]

FIRST SCHEDULE

Regulation 4 (1)

FIRE AREAS

PART I

England and Wales

[References to counties are references to administrative counties. For the purposes of this Part of this Schedule, the boundaries of any area therein referred to shall be taken to be the boundaries thereof as altered from time to time.]

REGION 1

Fire Area 1

The county boroughs of Gateshead, Newcastle-upon-Tyne, South Shields, Sunderland and Tynemouth.

The county of Northumberland.

The county of Durham, excluding the part in Fire Area 2.

Fire Area 2

The county boroughs of Darlington, Middlesbrough and West Hartlepool.

The county of York, North Riding.

The following districts in the county of Durham. *Boroughs*: Hartlepool, Stockton-on-Tees. *Urban Districts*: Barnard Castle, Billingham, Bishop Auckland, Shildon, Spennymoor. *Rural Districts*: Barnard Castle, Darlington, Sedgefield, Stockton.

REGION 2

Fire Area 3

The county boroughs of Barnsley, Doncaster, Rotherham and Sheffield.

The following districts in the county of York, West Riding. *Urban Districts*: Adwick-le-Street, Bentley-with-Arksey, Conisborough, Cudworth, Darfield, Darton, Dearne, Dodworth, Hoyland Nether, Maltby, Mexborough, Penistone, Rawmarsh,

Royston, Stocksbridge, Swinton, Tickhill, Wath-upon-Deane, Wombwell, Worsborough. *Rural Districts*: Doncaster, Kiveton Park, Penistone, Rotherham, Thorne, Wortley.

Fire Area 4

The county boroughs of Dewsbury, Leeds and Wakefield.

The following districts in the county of York, West Riding. *Boroughs*: Batley, Harrogate, Morley, Ossett, Pontefract, Pudsey, Ripon. *Urban Districts*: Aireborough, Castleford, Featherstone, Garforth, Heckmondwike, Hemsworth, Horbury, Horsforth, Knaresborough, Knottingley, Mirfield, Normanton, Rothwell, Spensborough, Stanley. *Rural Districts*: Hemsworth, Nidderdale, Osgoldcross, Ripon and Pateley Bridge, Tadcaster, Wakefield, Wetherby.

Fire Area 5

The county boroughs of Bradford, Halifax and Huddersfield.

The following districts in the county of York, West Riding. *Boroughs*: Brighouse, Keighley, Todmorden. *Urban Districts*: Baildon, Barnoldswick, Bingley, Colne Valley, Denby Dale, Denholme, Earby, Elland, Hebden Royd, Holmfirth, Ilkley, Kirkburton, Meltham, Otley, Queensbury and Shelf, Ripponden, Saddleworth, Shipley, Silsden, Skipton, Sowerby Bridge. *Rural Districts*: Bowland, Hepton, Sedburgh, Settle, Skipton, Wharfedale.

Fire Area 6

The county boroughs of Kingston-upon-Hull and York.

The county of York, East Riding.

The following districts in the county of York, West Riding. *Borough*: Goole. *Urban District*: Selby. *Rural Districts*: Goole, Selby.

REGION 3

Fire Area 7

The county borough of Derby.

The county of Derby, excluding the rural district of Blackwell.

Fire Area 8

The county borough of Nottingham.

The county of Nottingham.

The rural district of Blackwell in the county of Derby.

Fire Area 9

The county boroughs of Leicester and Northampton.

The counties of Leicester, Northampton and the Soke of Peterborough.

The county of Rutland, excluding the rural district of Ketton.

Fire Area 10

The county boroughs of Grimsby and Lincoln.

The counties of Lincoln, Parts of Holland, Lincoln, Parts of Kesteven, and Lincoln, Parts of Lindsey.

The rural district of Ketton in the county of Rutland.

REGION 4

Fire Area 11

The county borough of Southend-on-Sea.

The county of Essex, excluding the part in Region 5.

Fire Area 12

The counties of Bedford, Cambridge, the Isle of Ely and Huntingdon.

The county of Hertford, excluding the part in Region 5.

The urban district of Newmarket in the county of West Suffolk.

Fire Area 13

The county boroughs of Great Yarmouth, Ipswich and Norwich.

The counties of Norfolk and East Suffolk.

The county of West Suffolk, excluding the urban district of Newmarket.

REGION 5

Fire Areas 34, 36, 37 and 38

[See at end of this Part of this Schedule.]

REGION 6

Fire Area 14

The county borough of Portsmouth.

The county of the Isle of Wight.

The county of Southampton, excluding the part in Fire Area 16.

Fire Area 15

The county boroughs of Oxford and Reading.

The counties of Berks, Buckingham and Oxford.

Fire Area 16

The county boroughs of Bournemouth and Southampton.

The county of Dorset.

The following districts in the county of Southampton. *Boroughs* : Andover, Christchurch, Eastleigh, Lymington, Romsey, Winchester. *Rural Districts* : Andover, New Forest, Ringwood and Fordingbridge, Romsey and Stockbridge, Winchester.

REGION 7

Fire Area 39

The county borough of Gloucester.

The county of Gloucester, excluding the part in Fire Area 17.

The county of Wilts.

Fire Area 17

The county boroughs of Bath and Bristol.

The following districts in the county of Gloucester. *Urban Districts* : Kingswood, Mangotsfield. *Rural Districts* : Sodbury, Thornbury, Warmley.

The county of Somerset.

Fire Area 18

The county borough of Exeter.

The urban district of Bude-Stratton, and the rural district of Stratton, in the county of Cornwall.

The county of Devon, excluding the part in Fire Area 19.

Fire Area 19

The county borough of Plymouth.

The county of Cornwall, excluding the part in Fire Area 18, but including the Isles of Scilly.

The following districts in the county of Devon. *Urban District* : Tavistock. *Rural Districts* : Plympton St. Mary, Tavistock.

REGION 8

Fire Area 20

The county boroughs of Cardiff, Merthyr Tydfil and Newport.

The county of Monmouth.

The following districts in the county of Brecknock. *Urban District* : Brynmawr. *Rural Districts* : Crickhowell, Vaynor and Penderyn.

The county of Glamorgan, excluding the part in Fire Area 21.

Fire Area 21

The county borough of Swansea.

The counties of Carmarthen and Pembroke.

The following districts in the county of Brecknock. *Borough* : Brecknock. *Rural Districts* : Brecknock, Ystradgynlais.

The borough of Cardigan, and the rural district of Teifiside, in the county of Cardigan.

The following districts in the county of Glamorgan. *Boroughs* : Neath, Port Talbot. *Urban Districts* : Glyncoerrwg, Lluchwr. *Rural Districts* : Gower, Neath, Pontardawe.

Fire Area 22

The counties of Anglesey, Caernarvon, Denbigh, Flint, Merioneth, Montgomery and Radnor.

The following districts in the county of Brecknock. *Urban Districts* : Builth Wells, Hay, Llanwrtyd Wells. *Rural Districts* : Builth, Hay.

The county of Cardigan, excluding the borough of Cardigan, and the rural district of Teifiside.

REGION 9

Fire Area 23

The county borough of Worcester.

The county of Hereford.

The urban district of Amblecote in the county of Stafford.

The following districts in the county of Warwick. *Boroughs* : Royal Leamington Spa, Rugby, Stratford-upon-Avon, Warwick. *Urban Districts* : Kenilworth, Solihull. *Rural Districts* : Alcester, Rugby, Shipston-on-Stour, Southam, Stratford-upon-Avon, Warwick.

The county of Worcester, excluding the borough of Oldbury.

Fire Area 24

The county boroughs of Birmingham and Coventry.

The following districts in the county of Warwick. *Boroughs* : Nuneaton, Sutton Coldfield. *Urban District* : Bedworth. *Rural Districts* : Atherstone, Meriden.

Fire Area 40

The county boroughs of Dudley, Smethwick, Walsall, West Bromwich and Wolverhampton.

The following districts in the county of Stafford. *Boroughs* : Bilston, Rowley Regis, Tipton, Wednesbury. *Urban Districts* : Aldridge, Brierley Hill, Brownhills, Cannock, Coseley, Darlaston, Sedgely, Tettenhall, Wednesfield, Willenhall. *Rural Districts* : Cannock, Seisdon.

The borough of Oldbury in the county of Worcester.

Fire Area 25

The county boroughs of Burton-upon-Trent and Stoke-on-Trent.

The county of Salop.

The county of Stafford, excluding the parts in Fire Areas 23 and 40.

The rural district of Tamworth in the county of Warwick.

REGION 10

Fire Area 26

The county boroughs of Birkenhead, Bootle, Chester, Liverpool, St. Helens, Wallasey and Warrington.

The following districts in the county of Chester. *Boroughs* : Bebington, Congleton, Crewe. *Urban Districts* : Alsager, Ellesmere Port, Hoole, Hoylake, Middlewich, Nantwich, Neston, Northwich, Runcorn, Sandbach, Winsford, Wirral. *Rural Districts* : Chester, Congleton, Nantwich, Northwich, Runcorn, Tarvin.

The following districts in the county of Lancaster. *Boroughs* : Crosby, Widnes. *Urban Districts* : Haydock, Huyton-with-Roby, Litherland, Newton-le-Willows, Prescot, Rainford. *Rural Districts* : Warrington, West Lancashire in so far as it consists of the parishes of Aintree, Ince-Blundell, Ford, Melling, Netherton, Sefton and Thornton, Whiston.

Fire Area 27

The county boroughs of Bolton, Bury, Manchester, Oldham, Rochdale, Salford, Stockport and Wigan.

The following districts in the county of Chester. *Boroughs* : Altrincham, Dukinfield, Hyde, Macclesfield, Sale, Stalybridge. *Urban Districts* : Alderley Edge, Bollington, Bowdon, Bredbury and Romiley, Cheadle and Gatley, Hale, Hazel Grove and Bramhall, Knutsford, Longdendale, Lymm, Marple, Wilmslow. *Rural Districts* : Bucklow, Disley, Macclesfield, Tintwistle.

The following districts in the county of Lancaster. *Boroughs* : Ashton-under-Lyne, Eccles, Farnworth, Heywood, Leigh, Middleton, Mossley, Prestwich, Radcliffe, Stretford, Swinton and Pendlebury. *Urban Districts* : Abram, Ashton-in-Makerfield, Aspull, Atherton, Audenshaw, Billinge and Winstanley, Blackrod, Chadderton, Crompton, Denton, Droylsden, Failsworth, Golborne, Hindley, Horwich, Ince-in-Makerfield, Irlam, Kearsley, Lees, Littleborough, Little Lever, Milnrow, Orrell, Ramsbottom, Royton, Standish-with-Langtree, Tottington, Turton, Tyldesley, Upholland, Urnston, Wardle, Westhoughton, Whitefield, Whitworth, Worsley. *Rural Districts* : Limehurst, Wigan.

Fire Area 29

The county boroughs of Barrow-in-Furness, Blackburn, Blackpool, Burnley, Carlisle, Preston and Southport.

The county of Cumberland.

The following districts in the county of Lancaster. *Boroughs* : Accrington, Bacup, Chorley, Clitheroe, Colne, Darwen, Fleetwood, Haslingden, Lancaster, Lytham St. Anne's, Morecambe and Heysham, Nelson, Rawtenstall. *Urban Districts* : Adlington, Barrowford, Brierfield, Carnforth, Church, Clayton-le-Moors, Dalton-in-Furness, Grange, Formby, Fulwood, Great Harwood, Kirkham, Leyland, Longridge, Ormskirk, Oswaldtwistle, Padiham, Poulton-le-Fylde, Preesall, Rishton, Skelmersdale, Thornton Cleveleys, Trawden, Ulverston, Walton-le-Dale, Withnell. *Rural Districts* : Blackburn, Burnley, Chorley, Clitheroe, Fylde, Garstang, Lancaster, Lunesdale, Preston, Ulverston, West Lancashire (excluding the part in Fire Area 26).

The county of Westmorland.

REGION 12

Fire Area 30

The county borough of Canterbury.

The county of Kent, excluding the parts in Region 5 and Fire Area 31.

Fire Area 31

The county boroughs of Brighton, Eastbourne and Hastings.

The county of East Sussex.

The following districts in the county of Kent. *Boroughs* : Tenterden, Royal Tunbridge Wells. *Urban Districts* : Sevenoaks, Southborough, Tonbridge. *Rural Districts* : Cranbrook, Sevenoaks, Tenterden, Tonbridge.

The urban district of Caterham and Warlingham, and the rural district of Godstone, in the county of Surrey.

The urban districts of Shoreham-by-Sea and Southwick in the county of West Sussex.

Fire Area 32

The county of West Sussex, excluding the urban districts of Shoreham-by-Sea and Southwick.

The following districts in the county of Surrey. *Boroughs* : Godalming, Guildford, Reigate. *Urban Districts* : Chertsey, Dorking, Egham, Farnham, Frimley and Camberley, Haslemere, Leatherhead, Walton and Weybridge, Woking. *Rural Districts* : Bagshot, Dorking and Horley, Guildford, Hambledon.

REGION 5

Fire Areas 34, 36, 37 and 38

The counties of London and Middlesex.

The county boroughs of Croydon, East Ham and West Ham.

The following districts in the county of Essex. *Boroughs* : Barking, Chingford, Dagenham, Ilford, Leyton, Walthamstow, Wanstead and Woodford. *Urban Districts* : Chigwell, Waltham-Holy-Cross.

The following districts in the county of Hertford. *Urban Districts* : Barnet, Bushey, Cheshunt, East Barnet. *Rural District* : Elstree.

The following districts in the county of Kent. *Boroughs* : Beckenham, Bexley, Bromley, Erith. *Urban Districts* : Chislehurst and Sidcup, Crayford, Orpington, Penge.

The following districts in the county of Surrey. *Boroughs* : Barnes, Beddington and Wallington, Epsom and Ewell, Kingston-upon-Thames, Malden and Coombe, Mitcham, Richmond, Surbiton, Sutton and Cheam, Wimbledon. *Urban Districts* : Banstead, Carshalton, Coulsdon and Purley, Esher, Merton and Morden.

(Boundaries between Fire Areas to be determined from time to time by the Secretary of State.)

[For *Fire Area* 39 see under Region 7 above, and for *Fire Area* 40 see under Region 9 above.]

PART II

Scotland

1. *Western (No. 1)*

The city of Glasgow and the counties of Lanark, Dumbarton, Stirling and Clackmannan.

2. *Western (No. 2)*

The counties of Renfrew, Ayr, Dumfries, Wigtown, Kirkcudbright, Bute and Argyll.

3. *South Eastern*

The city of Edinburgh and the counties of East Lothian, West Lothian, Midlothian, Roxburgh, Berwick, Selkirk and Peebles.

4. *Eastern*

The city of Dundee and the counties of Angus, Perth, Kinross and Fife.

5. *North Eastern*

The city of Aberdeen and the counties of Aberdeen, Kincardine, Banff and Moray.

6. *Northern*

The counties of Caithness, Sutherland, Ross and Cromarty, Inverness, Nairn, Orkney and Zetland. [246]

Regulation 9 (3).

SECOND SCHEDULE

CODE OF DISCIPLINE

PART I

Code of offences against discipline

A fireman commits an offence against discipline if he is guilty of—

- (1) Disobedience to orders, that is to say, if he disobeys, or without sufficient cause fails to carry out, any lawful order, whether in writing or not ;

- (2) Insubordination, that is to say, if he is insubordinate to an officer of the National Fire Service ;
- (3) Abuse of authority, that is to say, if he abuses his authority by oppressive conduct towards a fireman of lower rank ;
- (4) Neglect of duty, that is to say, if he—
 - (a) without sufficient cause fails to attend to, or carry out, his duty promptly and diligently ; or
 - (b) by carelessness or neglect suffers any loss, damage or injury to occur to any person or property ; or
 - (c) without permission or sufficient cause leaves his station or place of duty ; or
 - (d) fails to report any matter which it is his duty to report ; or
 - (e) fails to make an entry, which it is his duty to make, in any book or document ;
- (5) Falsehood, that is to say, if he—
 - (a) knowingly makes any false or misleading statement, whether in writing or not, in the course of his duty ; or
 - (b) without sufficient cause, destroys or mutilates any official book or document or alters or erases any entry therein ;
- (6) Breach of confidence, that is to say, if he divulges any matter which it is his duty to keep secret ;
- (7) Corrupt practice, that is to say, if he—
 - (a) improperly uses his position as a member of the National Fire Service for his private advantage ; or
 - (b) fails to account for, or to make a prompt and true return of, any money or property which comes into his possession in the course of his duties ;
- (8) Absence from duty, that is to say, if he, without reasonable excuse, is absent from duty or is late for any parade, drill or other attendance ;
- (9) Damage to clothing or personal equipment, that is to say, if he—
 - (a) wilfully or negligently damages any article of clothing or personal equipment with which he has been provided or entrusted or fails to take proper care thereof ; or
 - (b) fails to report any damage to or loss of any article of clothing or personal equipment, however caused ;
- (10) Drunkenness, that is to say, if, when on duty or liable to be called upon for duty, he is unfit for duty through drink ; or
- (11) Discreditable or disorderly conduct, that is to say, if he—
 - (a) acts in a disorderly manner or in any manner prejudicial to discipline ; or
 - (b) while on duty or while off duty in uniform in a public place, is without reasonable excuse dirty or untidy in his person, clothing or personal equipment ; or
 - (c) acts in a manner likely to bring discredit on the reputation of the National Fire Service.

PART II

Rules of procedure and punishments

1. Where, on consideration of a complaint or otherwise, the Fire Force Commander decides that a fireman in a Fire Force should be charged with an offence against discipline, being an offence as defined in the code set out in Part I of this Schedule, the Fire Force Commander shall as soon as possible cause him to be informed in writing of the charge together with such particulars, including details as to time and place, as will leave him under no misapprehension regarding the allegations against him.

2.—(1) The accused shall be ordered to state in writing whether he admits or denies the charge, and shall be allowed to give in writing any explanation which he may wish to offer.

(2) The accused shall be allowed to state the names and addresses of any witnesses to material facts whom he may desire to give evidence at the hearing of the charge.

(3) Any such witness who is a member of the National Fire Service shall be ordered to attend at the hearing of the charge, and any other witness shall be given due notice that his attendance is desired and of the time and place of the hearing.

3. If the accused denies the charge, he shall, unless the Fire Force Commander is satisfied with the explanation which he has offered, be ordered to appear before the Fire Force Commander at the hearing of the charge and be entitled to hear the evidence given against him and to have an opportunity of cross-examining the witnesses and of calling witnesses in his defence.

4. An offence against discipline may be punished with—

- (1) dismissal ;
- (2) reduction in rank ;
- (3) stoppage of pay ;
- (4) additional duty ; or
- (5) reprimand :

Provided that—

- (a) a stoppage of pay in respect of any one offence shall not continue after the expiration of three months from the date of the award of the punishment or of the decision of any appeal therefrom, as the case may be, and the amounts of any stoppages (whether in respect of one or more offences) shall not exceed in the aggregate in any week one-seventh of the weekly pay of the offender ; and
- (b) additional duty in respect of any one offence shall not exceed forty-eight hours, and in respect of one or more offences shall not exceed in any week twelve hours.

5. The Fire Force Commander shall, as soon as may be after the determination of a charge by him, cause his decision to be notified in writing to the accused and, except as otherwise provided in this Part of this Schedule, his decision shall be final.

6.—(1) Where a fireman in a Fire Force is, by a decision of the Fire Force Commander for an offence against discipline, dismissed or reduced in rank, he shall, on giving notice in writing to the Fire Force Commander within seven days of the decision being notified to him, be entitled to appeal to the Regional Commissioner against the decision.

(2) The Regional Commissioner shall, unless it appears to him that the case is of such a nature that it can properly be determined without taking oral evidence, and may in any case, appoint one or more persons to hold an inquiry and report to him, and shall, after considering, where an inquiry has been held, the report of the person or persons who held the inquiry, either—

- (a) allow the appeal ;
- (b) dismiss the appeal ; or
- (c) vary the punishment by substituting some greater or less punishment :

Provided that the Regional Commissioner may at any time remit a case for further consideration by the Fire Force Commander or, if an inquiry has been held, for further investigation by the person or persons who held the inquiry.

(3) Where an inquiry is held under this paragraph, the accused shall be entitled to have a person selected by himself (who need not be a member of the National Fire Service) to assist him in presenting his case.

(4) Any inquiry held under this paragraph shall be by way of re-hearing, and the procedure thereat shall, subject to the provisions of this Part of this Schedule and to any directions given by the Regional Commissioner, be such as the person holding the inquiry, or, if there are two or more such persons, the person presiding at the inquiry, may determine, and in particular any such inquiry may be held in private, and may be proceeded with in the absence of any party to the appeal so long as that party has had not less than seven days' notice of the time and place fixed for the holding of the inquiry.

7.—(1) The Fire Force Commander may delegate all or any of his functions under the foregoing provisions of this Part of this Schedule, either generally or in a particular case, to another officer of the Fire Force, not below the rank of Column Officer (or, where the accused is a woman, not below the rank of Area Officer) or (in either case) to a board consisting of two or more such officers :

Provided that the powers of punishment of an officer or board to whom functions are delegated under this paragraph shall be subject to the following restrictions :—

- (i) no punishment shall be imposed other than—
 - (a) stoppage of pay ;
 - (b) additional duty ; or
 - (c) reprimand ;
- (ii) the amount of any stoppage of pay imposed on an offender on the same occasion in respect of one or more offences shall not exceed twenty shillings, and the amount of additional duty imposed on an offender on the same occasion in respect of one or more offences shall not exceed twenty-four hours ; and
- (iii) any punishment imposed shall not be carried out until it has been confirmed, with or without modifications, by the Fire Force Commander, and for the purpose of proviso (a) to paragraph 4 of this Part of this Schedule the date of the confirmation shall be deemed to be the date of the award of the punishment.

(2) Any fireman in a Fire Force who feels aggrieved by a decision of an officer or board to whom functions have been delegated under this paragraph awarding punishment shall, on giving notice in writing to the Fire Force Commander within three clear days of the decision having been notified to him, be entitled to appear before the Fire Force Commander to make representations against the confirmation of the punishment.

(3) Where a notice is given under sub-paragraph (2) of this paragraph, the power of the Fire Force Commander to confirm the punishment with modifications shall extend to increasing it ; and where the punishment is increased to dismissal or reduction in rank, the fireman shall have the same rights of appeal under paragraph 6 of this Part of the Schedule as he would have had if the case had been dealt with in the first instance by the Fire Force Commander.

(4) Where it appears to the officer or board by whom any case is being heard under this paragraph that for any reason it may be desirable that the case should be heard by the Fire Force Commander, the officer or board shall so inform the Fire Force Commander and the Fire Force Commander may direct either that the hearing shall be recommenced before him or that it shall be continued before the officer or board.

8. A fireman in a Fire Force, shall be allowed to have another member of that Force, selected by himself, to assist him in presenting his case at the hearing of a charge against him or in making representations under the last foregoing paragraph against the confirmation of a punishment :

Provided that the member selected by a fireman to assist him in presenting his case at the hearing of a charge shall not be an officer of a rank equal or superior to that of the officer, or any of the officers, hearing the charge.

9. If a fireman in a Fire Force refuses or without sufficient cause fails to attend at the time and place appointed for the hearing of any charge or for making representations against the confirmation of a punishment, or if at that time he is serving a term of penal servitude or imprisonment or is otherwise in legal custody, the matter may be decided in his absence.

10. Nothing in the provisions of this Part of this Schedule shall prejudice any right apart from those provisions—

- (a) to discharge any fireman or reduce him in rank ; or
- (b) to cause any fireman to be prosecuted for an offence without proceedings having been taken in accordance with this Part of this Schedule.

11. The foregoing provisions of this Part of this Schedule shall have effect, in relation to offences committed by a fireman in a Fire Force while he is stationed at a Reserve Station or other station established for the purpose of providing re-

inforcements or training, as if references therein to the Fire Force Commander included references to the officer in the National Fire Service in command of the station :

Provided that—

- (a) no punishment shall be imposed by any such officer, either originally or under paragraph 7 (3), other than—
 - (i) stoppage of pay ;
 - (ii) additional duty ; or
 - (iii) reprimand ;
- (b) the references to the Fire Force Commander in paragraph 7 (other than the first such reference) shall be construed as references to the Fire Force Commander or to the officer in command of the station, whichever of them makes the delegation ;
- (c) in relation to a charge heard by virtue of this paragraph, the references in paragraph 7 to officers of the Fire Force, and the reference in paragraph 8 to another member of the Fire Force, shall be construed respectively as references to officers of and to another fireman in the National Fire Service for the time being stationed at or posted to the station ;
- (d) a fireman shall not be tried for the same offence both by virtue of this paragraph and by, or by the authority of, his Fire Force Commander.

12. This Part of this Schedule applies to a fireman who is not a member of any Fire Force as it applies to a fireman in a Fire Force, but with the substitution for references to the Fire Force Commander of references to such officer as may be designated by the Secretary of State in relation to any particular case or class of cases, and with such other adaptations and modifications, if any, as the Secretary of State may direct.

PART III

Provisions as to suspension

1. The Fire Force Commander, if it appears to him that an offence against discipline or a criminal offence may have been committed by a fireman who is a member of his Fire Force or is attached to his Fire Force, may suspend that fireman from duty.

2. Where a fireman is suspended from duty under this Part of this Schedule on the ground of absence from duty, the period of suspension shall, if the Fire Force Commander so directs, begin with the date which appears to the Fire Force Commander to be the date on which that offence may have been committed.

3. Where a fireman is suspended from duty under this Part of this Schedule, the period of suspension shall, unless previously brought to an end by the Fire Force Commander, continue until disciplinary or criminal proceedings in respect of that offence have been concluded or until it has been decided that such proceedings shall not be taken or shall be discontinued :

Provided that, where a fireman is found guilty of a criminal offence, the period of suspension shall (so far as not continued by Regulation 9 (6) of these Regulations) continue until it is decided whether or not he shall be discharged by reason of the finding of guilt.

4. A fireman who has been suspended from duty (whether by virtue of Regulation 9 or Regulation 10 of these Regulations or under this Part of this Schedule) shall not be entitled in respect of the period of suspension to any pay but shall, subject to the provisions of paragraph 6 of this Part of this Schedule, be paid—

- (i) where he has been suspended under paragraph 1 of this Part of this Schedule on the ground of absence from duty, such suspension allowance, if any, as may from time to time be directed by the Fire Force Commander ;
- (ii) in any other case, such suspension allowance, not being less than half his pay, as may from time to time be so directed :

Provided that—

- (a) if the suspension of a fireman under this Part of this Schedule terminates without his having been found guilty of an offence against discipline or of a criminal offence, he shall receive, in respect of the period of

suspension, the pay which he would, but for the suspension, have received, less the amount of any sums paid to him by way of suspension allowance ;

- (b) where a fireman is found guilty of an offence against discipline, the award in respect of the offence may contain a direction that the fireman shall be treated as having been suspended only for a specified part of the period of his suspension under this Part of this Schedule, and where a fireman is found guilty of a criminal offence, his Fire Force Commander may give a similar direction ; and where such a direction is given, the fireman shall receive, in respect of the remainder of that period of suspension, the sum which he would have received in respect thereof if he had not been found guilty.

5. The powers conferred by this Part of this Schedule may, without prejudice to any power of a Fire Force Commander to exercise those powers as respects any member of his Fire Force, be exercisable, in the case of a fireman stationed at or posted to a Reserve Station or other station for training or other purposes, and in the case of any fireman who is not a member of a Fire Force, by the Secretary of State or by such person, if any, as may be designated, either generally or specially, by the Secretary of State.

6. Notwithstanding anything in this Part of this Schedule, no suspension allowance shall be payable in respect of any period of penal servitude, imprisonment or detention in a Borstal institution not being a period of imprisonment on remand or while awaiting trial.

PART IV

General provisions as to Fire Force Commanders and Assistant Fire Force Commanders

1. The Regional Commissioner may direct that all or any of the powers of a Fire Force Commander under Parts II and III of this Schedule shall be exercisable also in relation to the whole or any part of his Fire Force by such person as may be specified in the direction, being either an Assistant Fire Force Commander who is a member of that Fire Force or the officer designated as the deputy of the Fire Force Commander, or shall, in any particular case, be exercised by any member of the National Fire Service so specified, whether a fireman or not, instead of the Fire Force Commander ; and references to the Fire Force Commander in the said Parts II and III shall be construed accordingly.

2.—(1) Part II of this Schedule shall have effect, in relation to offences committed by Fire Force Commanders or Assistant Fire Force Commanders subject to the modifications set out in this paragraph.

(2) Paragraphs 6, 7, 8, 11 and 12 shall not apply.

(3) References to a fireman in a Fire Force shall be construed as references to a Fire Force Commander or Assistant Fire Force Commander (whether or not a member of a Fire Force), but any other reference to the Fire Force Commander shall be construed as a reference to the Regional Commissioner.

(4) The Regional Commissioner may delegate all or any of the functions conferred on him by virtue of this paragraph, either generally or, in a particular case, to any person selected by him or to a board consisting of two or more such persons.

(5) A Fire Force Commander or Assistant Fire Force Commander shall be allowed to have another member of the National Fire Service, selected by himself, to assist him in presenting his case at the hearing of a charge against him :

Provided that where the charge is heard, by virtue of a delegation under subparagraph (4) of this paragraph, by a fireman or firemen in the National Fire Service (whether or not together with other persons), the person selected by the Fire Force Commander or Assistant Fire Force Commander to assist him in presenting his case shall not be a fireman in the National Fire Service of a rank equal or superior to that of the fireman, or any of the firemen, hearing the charge.

(6) Any punishment imposed by virtue of this paragraph shall not be carried out until it has been confirmed, with or without modifications, by the Secretary of State and for the purpose of proviso (a) to paragraph 4 of the said Part II the

date of the confirmation shall be deemed to be the date of the award of the punishment, and the Secretary of State may appoint one or more persons to hold an inquiry and report to him as to the confirmation or otherwise of any such punishment.

(7) Any Fire Force Commander or Assistant Fire Force Commander who feels aggrieved by a decision of the Regional Commissioner, or of a person or board to whom the functions of the Regional Commissioner have been delegated under this paragraph, awarding punishment shall, on giving notice in writing to the Secretary of State and to the Regional Commissioner within seven clear days of the decision having been notified to him, be entitled to make representations against the confirmation of the punishment; but where a notice is given under this sub-paragraph the power of the Secretary of State to confirm the punishment with modifications shall extend to increasing it.

(8) A Fire Force Commander or Assistant Fire Force Commander who gives notice under sub-paragraph (7) of this paragraph shall make his representations in writing; but if an inquiry is to be held under sub-paragraph (6) of this paragraph, he shall be entitled to appear before, and be heard by, the persons holding the inquiry and to have a person selected by himself (who need not be a member of the National Fire Service) to assist him in presenting his case.

3. Part III of this Schedule shall apply to Fire Force Commanders and Assistant Fire Force Commanders who are members of a Fire Force as if they were not members of any Fire Force. [247]

Regulation 9 (7).

THIRD SCHEDULE

CONDITIONS OF SERVICE

1.—(1) The rate of pay of whole-time male firemen shall be in accordance with the scale following :—

						£	s.	d.	
Divisional Officer	..	..	..	..	..	650	0	0	per annum.
Column Officer	..	..	..	..	..	550	0	0	„ „
Senior Company Officer	..	..	..	..	..	450	0	0	„ „
Company Officer	..	..	..	..	..	400	0	0	„ „
Section Leader	..	..	..	..	..	6	5	6	per week.
Leading Fireman	..	..	..	..	..	4	15	6	„ „
Fireman, aged twenty or over	..	..	..	..	..	4	0	6	„ „
„ aged nineteen to twenty	..	..	..	..	..	3	3	0	„ „
„ aged eighteen to nineteen	..	..	..	..	..	2	12	0	„ „

(2) The rate of pay of whole-time firewomen shall be in accordance with the scale following :—

						£	s.	d.	
Group Officer	..	..	..	..	..	275	0	0	per annum.
Assistant Group Officer	..	..	..	..	..	225	0	0	„ „
Senior Leading Firewoman	..	..	..	..	..	3	13	6	per week.
Leading Firewoman	..	..	..	..	..	3	5	6	„ „
Firewoman, aged twenty or over	..	..	..	..	..	2	16	6	„ „
„ aged nineteen to twenty	..	..	..	..	..	2	9	0	„ „
„ aged eighteen to nineteen	..	..	..	..	..	2	8	6	„ „

(3) In addition to the rates of pay specified in sub-paragraphs (1) and (2) of this paragraph, there may be paid to firemen (and firewomen) additional pay on account of length of war service (whether in the National Fire Service or not) in such circumstances and on such conditions and at such rates as the Secretary of State may from time to time determine.

(4) Whole-time firemen (or firewomen) under the age of eighteen shall receive pay at the same rates as if they were civil defence volunteers not in the National Fire Service, and whole-time firemen (or firewomen) who are officers holding ranks other than those hereinbefore specified shall be paid at such rates as the Secretary of State may from time to time determine.

(5) Part-time firemen shall receive compensation for remunerative time actually lost by reason of their duties as firemen at such rates as the Secretary of State may from time to time determine :

Provided that where a fire brigade maintained by some person other than a local authority has been by agreement incorporated in the National Fire Service and immediately before its incorporation there were in force arrangements with a local authority for the provision by that person of the services of that brigade, there shall be paid to members of the brigade who on its incorporation became part-time firemen such sums, whether by way of pay or compensation for loss of time, as the Secretary of State may from time to time determine.

2. Firemen may be paid allowances and, in respect of trade or similar qualifications, extra remuneration in such circumstances and on such conditions and at such rates as the Secretary of State may from time to time determine.

3. Subject to any general or special directions of the Secretary of State, the hours of duty of whole-time firemen in a Fire Force shall be—

- (a) in the case of whole-time male firemen aged eighteen or over, not less than seventy-two in any week ;
- (b) in the case of whole-time firewomen and of whole-time male firemen who have not attained the age of eighteen, not less than forty-eight in any week ;

but any whole-time fireman in a Fire Force shall be liable to be called on duty at any time :

Provided that (subject to any general or special directions of the Secretary of State and to the provisions of Part II of the Second Schedule to these Regulations relating to additional duty) a whole-time fireman shall be entitled in every week, or, if his hours of duty require him to be continuously on duty for periods of forty-eight hours, then in every period of three days, to a continuous rest period of twenty-four hours during which he shall not be liable to be called on duty except in an emergency.

4. Firemen shall be subject to such conditions as respects sick leave, medical attention and hospital treatment as the Secretary of State may from time to time determine :

Provided that the conditions shall not be less favourable than the conditions as respects the said matters applying to civil defence volunteers not in the National Fire Service.

5. A whole-time fireman shall be subject to such restrictions as to his place of residence and as to the undertaking of work outside his employment in the National Fire Service as may, in the interests of his efficiency as a fireman, be imposed upon him by or by the authority of his Fire Force Commander or, if he is not a member of a Fire Force, by or by the authority of the Secretary of State.

6. A fireman may be ordered to undergo at any time medical examination by a duly qualified medical practitioner appointed by or on behalf of the Secretary of State.

7. Articles of clothing, uniform or personal equipment issued to a fireman for the purpose of the National Fire Service shall not become his property and must be used by him only in the execution of his duty as a fireman and be returned by him when required or when he leaves the Service, and a fireman may be required to make good any loss of, or damage to, any such article unless the loss or damage occurred without his default.

8.—(1) The foregoing provisions of this Schedule shall apply to persons transferred by virtue of the National Fire Service (General) Regulations, 1941, to the National Fire Service, who immediately before their transfer were members of a fire brigade or a police force, subject to the modifications contained in this paragraph.

(2) The rate of pay for leading firemen shall be £5 5s. per week, or, in special cases, such higher rate as the Secretary of State may from time to time determine.

(3) The pay of a whole-time fireman shall not in any case be less than the pay to which he would have been entitled if he had remained a member of his brigade or force, and, where in that case he would have been entitled, in addition to his pay, to emoluments of any class, he shall receive the emoluments of that class approved by the Secretary of State as appropriate to his rank in the National Fire Service :

Provided that this sub-paragraph, so far as it relates to pay, shall cease to apply to any fireman who, at any time after he has become a fireman in the National Fire Service, is reduced in rank for an offence against discipline or on conviction of a criminal offence.

In this sub-paragraph the expression "emoluments" means emoluments of one of the following classes :—

- (a) free quarters, or an allowance in lieu thereof, or an allowance towards the cost of rent ;
- (b) light, or an allowance in lieu thereof ;
- (c) fuel, or an allowance in lieu thereof ;

and the pay to which a fireman would have been entitled as aforesaid shall be taken to be the pay to which he would have been so entitled if he had been actually provided with free quarters, light and fuel and if the appropriate deductions, if any, had been made from his pay in respect thereof, and the amount of any such deductions shall be treated as emoluments to which he would have been entitled in addition to his pay.

(4) There shall be paid to part-time firemen who immediately before their transfer were part-time regular firemen such sums, whether by way of pay or compensation for loss of time, as the Secretary of State may from time to time determine.

(5) A fireman, so long as he remains in the National Fire Service, shall be entitled, while incapacitated for duty by injury or sickness incurred or contracted without his default, to receive his full pay, less any weekly payments he receives under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for the injury or sickness and, in the case of a fireman who is insured or treated as insured under the National Health Insurance Acts, 1936 to 1941, otherwise than as a voluntary contributor, less any sums he receives or is entitled to claim under the last mentioned Acts in respect of that incapacity, and paragraph 4 of this Schedule shall not apply to him :

Provided that this sub-paragraph shall not apply to a fireman who immediately before his transfer was a temporary fireman, except as respects periods of sick leave equal to the periods of sick leave, if any, during which he would have been entitled, if he had remained a member of his brigade, to receive his full pay as such a member.

(6) A fireman, other than a fireman who immediately before his transfer was a temporary fireman, shall, while so incapacitated for duty as aforesaid, be entitled to receive, whether in hospital or otherwise, free medical attendance (including the supply of necessary medicines and drugs), so long as he remains in the National Fire Service :

Provided that where the fireman is being treated in hospital and the incapacity did not result from a war injury or war service injury as defined by the Personal Injuries (Emergency Provisions) Act, 1939, he shall contribute one shilling a day towards the cost of his maintenance and the amount of that contribution may be deducted from his pay.

9. Paragraph 8 of this Schedule shall apply also to persons becoming members of the National Fire Service otherwise than by virtue of a transfer under these Regulations if either—

- (a) immediately before they became such members, they were chief officers of police and did not, on becoming such members, retire on pension from their police forces ; or
- (b) at any time since the beginning of September, 1939, they were members of a fire brigade and, when they became members of the National Fire Service, were such persons as are mentioned in section one of the Police and Firemen (War Service) Act, 1939 (as amended or extended by or under any enactment), or section one of the Local Government Staffs (War Service) Act, 1939,

but as if any reference to transfer to the National Fire Service were a reference to ceasing to be a chief officer of police or to serve in a fire brigade, as the case may be.

10. In computing, for the purposes of this Schedule, the pay to which a whole-time fireman would have been entitled if he had remained a member of his brigade or force it shall be assumed—

- (a) that he would have continued to hold the same rank as that which he held when he ceased to be a member of his brigade or force ; and
- (b) that his rate or scale of pay would have remained the same ; and
- (c) that all necessary certificates as to efficiency and conduct would have been granted ; and
- (d) that he would have received any increments for long service which could have been granted to him but not any other discretionary increments :

Provided that there shall, to such extent, and to such extent only, as the Secretary of State may from time to time direct, be taken into account any increase of pay which, in the opinion of the Secretary of State, any such fireman as aforesaid would, on the assumptions aforesaid, be enjoying, being an increase resulting from—

- (i) an increase of pay granted to the brigade or force after, but with effect from a date before, he ceased to be a member thereof ;
- (ii) an increase of pay which the Secretary of State is satisfied would have been granted to the brigade or has been granted to the force after he ceased to be a member thereof. [248]

FOURTH SCHEDULE

Regulation 14 (1).

PROVISIONS OF FIRE BRIGADES ACT, 1938, APPLIED (WITH ADAPTATIONS AND MODIFICATIONS) TO NATIONAL FIRE SERVICE

1.—(4) The Fire Force Commander or any officer authorised in writing by him shall, for the purpose of obtaining information required for the purposes of his Fire Force with respect to the character of any buildings or other property, the available water supplies and the means of access thereto, and other material local circumstances, have the like powers of entering premises as are conferred upon authorised officers of councils by section two hundred and eighty-seven of the Public Health Act, 1936, and accordingly that section shall have effect as if the references to an authorised officer of a council included references to such an officer as aforesaid and as if among the purposes specified in subsection (1) of that section there were included the aforesaid purpose.

This subsection shall have effect as if section two hundred and eighty-seven of the Public Health Act, 1936, extended to the whole of Great Britain.

2.—(1) Without prejudice to any other powers exercisable by him or by any other person, whether by virtue of any enactment or otherwise, the Fire Force Commander in command of a Fire Force may authorise the placing on any wall or fence adjoining a street or public place, or elsewhere, of a notice or distinguishing mark indicating the situation of any fire-hydrant.

(7) The National Fire Service may use for the purposes of extinguishing fires any convenient or suitable supply of water.

14.—(1) Any member of the National Fire Service being on duty (as well as any police constable) may enter and if necessary break into any premises or place in the United Kingdom or the Isle of Man in which a fire has or is reasonably supposed to have broken out, or any premises or place which it is necessary to enter for the purpose of extinguishing a fire, without the consent of the owner or occupier thereof, and may do all such acts and things as he may deem necessary for extinguishing fire or for protecting from fire any such premises or place or rescuing any person or property therein.

(2) Any person who wilfully obstructs or interferes with any member of the National Fire Service engaged in operations for the extinction of a fire or the protection or rescue of any person or property from fire shall be liable on summary conviction to a fine not exceeding ten pounds.

(3) The officer of the National Fire Service who has charge of the operations for the extinction of a fire may require the water to be shut off from the mains or pipes in any area in order to give a greater supply and pressure of water for extinguishing the fire, and no authority or person shall be liable to any penalty

or claim by reason of the interruption of a supply of water occasioned only by compliance with a request or requirement of an officer of the National Fire Service that the water shall be shut off from the mains and pipes in any area in order to give a greater supply and pressure of water for extinguishing a fire. [249]

FIFTH SCHEDULE

Regulation 17.

APPLICATION OF REGULATIONS TO LONDON AREA

1.—(1) In addition to the four Fire Forces in the London Area there shall be the River Thames Formation to serve on and in connection with the fire-fighting craft on the river Thames, and the said Formation shall be in the charge of an officer appointed for the purpose.

(2) These Regulations shall apply in relation to the River Thames Formation as if it were one of the London Fire Forces and as if the officer in charge of the Formation (whatever his rank) were the Fire Force Commander in command of that Force.

2. The reference in the proviso to Regulation 9 (1) of these Regulations to a part-time fireman's own Fire Area shall, in relation to a part-time fireman in any of the London Fire Forces, have effect as if it were a reference to the whole London Area. [250]

Regulation 18.

SIXTH SCHEDULE

REGULATIONS REVOKED

The National Fire Service (General) Regulations, 1941.
 The National Fire Service (Alteration of Fire Areas) Regulations, 1941.
 The National Fire Service (General) Regulations, 1942.
 The National Fire Service (General) (No. 2) Regulations, 1942.
 The National Fire Service (General) (No. 3) Regulations, 1942.
 The National Fire Service (General) (No. 4) Regulations, 1942, except Regulations 3, 5 and 6 thereof (which relate to pensions).
 The National Fire Service (General) (No. 5) Regulations, 1942.
 The National Fire Service (Alteration of Fire Areas) Regulations, 1942.
 The National Fire Service (General) (No. 6) Regulations, 1942.
 The National Fire Service (General) Regulations, 1943.
 The National Fire Service (Alteration of Fire Areas) Regulations, 1943.
 The National Fire Service (General) (No. 2) Regulations, 1943.
 The National Fire Service (General) (No. 3) Regulations, 1943.
 The National Fire Service (Alteration of Fire Areas) (No. 2) Regulations, 1943.
 The National Fire Service (General) (No. 4) Regulations, 1943.
 The National Fire Service (General) (No. 5) Regulations, 1943.
 The National Fire Service (Alteration of Fire Areas) Regulations, 1944.
 The National Fire Service (Alteration of Fire Areas) (No. 2) Regulations, 1944.
 The National Fire Service (Alteration of Fire Areas) (No. 3) Regulations, 1944.

[251]

Note as to S. R. & O., 1944, No. 1077.—*These Regulations consolidate, with amendments, the Regulations set out in the Sixth Schedule, which are accordingly revoked. The amendments, other than those which consist of rearrangement, removal of provisions which are spent and amendments consequential on consolidation, are as follows.*

Regulation 10 (4).—*Provision has been made for discharge from the National Fire Service to operate in the case of a person serving therewith by virtue of an enrolment notice under the National Service Act, 1941, as a discharge from the service of the Crown under that Act without the special consent of the Secretary of State.*

SECOND SCHEDULE, PART III

Paragraph 3 (formerly paragraph 2).—*Any period of suspension from duty during proceedings against a fireman for a criminal offence was formerly continued (if the proceedings terminated in a conviction) until it had been decided whether or not he should be discharged from the Service. Provision has been made for any period of suspension from duty similarly to be continued if the proceedings terminate in a finding of guilt, that is to say, if the court dealt with the case under the Probation of Offenders Act, 1907, without proceeding to conviction.*

Paragraph 4 (formerly paragraph 3), provisos (a) and (b). *A fireman formerly had a right to receive full pay in respect of a period during which he had been suspended from duty by reason of criminal proceedings unless the proceedings terminated in a conviction. If they did so termi-*

nate, the Fire Force Commander had power to direct that he should receive full pay in respect of any part of the period. Provision has been made for the right to full pay to be dependent on the proceedings terminating neither in a conviction nor in a finding of guilt and accordingly to empower the Fire Force Commander to give a similar direction.

THIRD SCHEDULE

Paragraph 1.—Provision has been made for increased rates of pay for certain ranks of whole time firemen and firewomen (sub-para. (1) and (2)).

Provision has been made for the grant of additional pay on account of length of war service (sub-para. (3)).

Paragraph 2.—Provision has been made for the grant of extra remuneration in respect of trade qualifications.

Paragraph 4.—The distinction as regards sick leave, medical attendance and hospital treatment between firemen called up for civil defence under the National Service Act, 1941, and others has been removed. The conditions of both classes in respect of these matters are now to be determined by the Secretary of State, provided that they are not less favourable than those applying to other civil defence volunteers.

Paragraph 8 (5) and paragraph 10, proviso (ii).—In the case of firemen who were transferred to the National Fire Service on its formation and immediately before their transfer were members of a fire brigade or a police force—

(a) provision has been made, on the one hand, that no deductions from their sick pay shall be made in respect of payments under the Personal Injuries (Civilians) Scheme, 1944, or, if they are voluntary contributors, in respect of sums to which they are entitled under the National Health Insurance Acts, 1936 to 1941, and, on the other hand, that such deductions shall be made in respect of weekly payments under the Workmen's Compensation Acts, 1925 to 1943 (para. 8 (5)) :

(b) there has been an extension of the Secretary of State's power to direct that, in computing the pay to which a whole-time fireman would have been entitled if he had remained a member of his brigade or police force, subsequent increases shall be taken into account (para. 10, proviso (ii)).

FOOD AND DRUGS

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STATUTES

THE FOOD AND DRUGS (MILK AND DAIRIES) ACT, 1944

(7 & 8 Geo. 6, c. 29)

PRELIMINARY NOTE

This Act amends the Food and Drugs Act, 1938, primarily in order to enable certain functions of local authorities in relation to the conditions under which milk (including designated milks) is produced on the farm, to be transferred to the Minister

of Agriculture and Fisheries, in accordance with the proposals contained in paragraphs 13-15 of the White Paper entitled "Measures to Improve the Quality of the Nation's Milk Supply" (Cmd. 6454, July, 1943). In the Financial and Explanatory Memorandum issued with the Bill it was announced :—

"It is not possible to state the exact cost to the Exchequer, but it is not anticipated that it will exceed £175,000 per annum."

S. 1 amends s. 20 of the Food and Drugs Act, 1938 (the principal Act), under which Milk and Dairies Regulations are made, and provides that the power of making such Regulations shall, instead of being exercised by the Minister of Health, be exercised jointly by that Minister and the Minister of Agriculture and Fisheries. Sub-s. (2) requires the Regulations to provide for the registration with the Minister of Agriculture and Fisheries of dairy farms (defined in s. 8 (1), *post*), and enables that Minister to refuse or cancel registration of a dairy farm if in his opinion the regulations will not be or are not being complied with. The Regulations are to enable persons affected by an intention of the Minister to refuse or cancel a registration to make objections to a tribunal constituted under the Regulations, and to make representations to the Minister against the intended refusal or cancellation.

S. 2 amends s. 21 of the principal Act, which relates to special designations of milk. Sub-s. (2) provides that the power of making Milk (Special Designation) Regulations, so far as they relate to new milk, shall be exercised jointly by the Minister of Health and the Minister of Agriculture and Fisheries. Sub-s. (3) requires the regulations to provide for the granting of licences to producers of raw milk by the Minister of Agriculture and Fisheries, instead of by the Minister of Health or county councils or local authorities.

S. 3 extends s. 22 of the principal Act, which provides for the refusal or cancellation by local authorities of the registration of persons who apply to be or are registered as retail purveyors of milk so as to apply to all persons, whether retail purveyors or not, who apply to be or are registered in pursuance of Milk and Dairies Regulations by an authority other than the Minister of Agriculture and Fisheries. Provision in Milk and Dairies Regulations for registration of dairy farms by the Minister of Agriculture and Fisheries has been made in s. 1.

S. 4 makes certain consequential and supplementary amendments. S. 5 provides for the payment by a local authority of compensation to any officer or servant who in consequence of the Act suffers direct pecuniary loss and s. 6 provides for the necessary superannuation conditions.

No part of the Act has yet come into operation ; it is intended that it shall do so as soon as conditions permit. Provision is made in s. 9 (2) for the day on which the Act is to come into operation to be appointed by an Order to be made by the Minister of Health. [252]

ARRANGEMENT OF SECTIONS

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An Act to amend the provisions of the Food and Drugs Act, 1938, relating to Milk and Dairies Regulations and other matters connected therewith. [253]
[27th July, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Amendment of s. 20 of principal Act.—(1) The power of making Milk and Dairies Regulations under section twenty of the principal Act shall, instead of being exercised by the Minister of Health, be exercised jointly by that Minister and the Minister of Agriculture and Fisheries. [254]

(2) Regulations made under paragraph (a) of subsection (1) of the said section twenty for the registration of dairies, and of persons carrying on or proposing to carry on the trade of dairymen, shall provide—

- (a) for the registration by the Minister of Agriculture and Fisheries of dairy farms, and of persons carrying on, or proposing to carry on, the trade of a dairy farmer ;
- (b) for the refusal of any such registration by that Minister if in his opinion, having regard to conditions existing at the premises to be registered, the regulations cannot be complied with and the registration should be refused, and for the cancellation of any such registration by that Minister if in his opinion the regulations are not being complied with and the registration should be cancelled. [255]

(3) Any regulations made by virtue of paragraph (b) of the last foregoing subsection shall—

- (a) require notice to be given to the person affected of any intention to refuse or cancel the registration, stating the grounds on which it is alleged that the regulations cannot be or are not being complied with, as the case may be, and his rights of making objections and representations in accordance with the regulations ;
- (b) enable the said person, within the time prescribed by the regulations (which shall not be less, in the case of a refusal, than twenty-eight days or, in the case of a cancellation, than twenty-one days, from the date of the service of the said notice), to object, in respect of all or any of the grounds stated in the said notice, that the regulations can be or are being complied with, as the case may be ;
- (c) provide for the reference of any such objection to a tribunal constituted in accordance with the regulations ;
- (d) provide for the procedure of the said tribunal, and in particular for entitling the person objecting to appear before the tribunal with any witnesses he desires to call, and to require the tribunal to inspect the premises to which the objections relate ;
- (e) require the said tribunal to determine whether the objections are made out and, if not, on which of the grounds in respect of which they are made they are not made out, and provide that, in the event of a difference of opinion among the members of the tribunal, the determination of the majority of them shall be the determination of the tribunal ;
- (f) require that the determinations of the tribunal shall be reported to the Minister of Agriculture and Fisheries and communicated by him to the person objecting, and provide that the determinations of the tribunal as stated in the report shall, for the purpose of the proposal to refuse or cancel registration, be conclusive evidence of the facts found thereby ;
- (g) enable the said person within the time so prescribed to make representations to the Minister of Agriculture and Fisheries that the registration should not be refused or cancelled on the grounds stated in the notice mentioned in paragraph (a) of this subsection ;
- (h) provide that no registration shall be cancelled—
 - (i) in any case, until the expiration of the prescribed time for making objections or representations under the regulations ;

(ii) in a case where an objection is made within that time, until the report of the tribunal thereon has been received and considered by the said Minister ;

(iii) in a case where representations are made to the said Minister within that time, until the representations have been considered by him. [256]

(4) Any premises being immediately before the commencement of this Act a dairy farm, and any person then carrying on the trade of a dairy farmer, shall be deemed to have been registered in accordance with Milk and Dairies Regulations by the Minister of Agriculture and Fisheries at the commencement of this Act ; and those regulations shall include provision for ascertaining the premises and persons deemed to have been registered as aforesaid and for making consequential adjustments of the register kept by any authority under the said regulations immediately before the commencement of this Act, and may include provision for any matter incidental to or consequential on the foregoing provisions of this subsection. [257]

(5) The power of making regulations under paragraph (b) of subsection (1) of the said section twenty of the principal Act for the inspection of dairies and persons in or about dairies shall include power to make regulations for the inspection of cattle on dairy farms. [258]

(6) The power of making regulations under paragraph (h) of the said subsection (1) regulating the conveyance and distribution of milk shall include power to make regulations regulating the storage of milk. [259]

Object of section.—See the Preliminary Note, *ante*.

Milk and Dairies Regulations.—These are regulations which the Minister of Health was empowered to make, under s. 20 of the Food and Drugs Act, 1938, for the purposes specified in that section.

Principal Act.—The principal Act is the Food and Drugs Act, 1938.

Section 20 (1) (a).—The refers to regulations “ for the registration of person carrying on, or proposing to carry on, the trade of a dairyman and the registration of dairies, and prohibiting any person from carrying on the said trade unless he and any premises used by him as a dairy are duly registered.”

Dairies and Dairy-men.—See the definition of these terms in s. 100 (1) of the principal Act.

Dairy farms and dairy farmers.—These terms are defined in s. 8 (1), *post*.

Notice.—S. 96 of the principal Act incorporates various provisions of the Public Health Act, 1936, dealing (*inter alia*) with the form, authentication and service of notices.

Commencement of the Act.—By s. 9 (2), *post*, the Act is to come into operation on such day as the Minister of Health may by order appoint.

Section 20 (1) (b).—This refers to regulations “ for the inspection of dairies, and of persons in or about dairies who have access to the milk, or to the churns or other milk vessels.”

Section 20 (1) (h).—This refers to regulations “ with respect to the labelling, marking, or identification, and the sealing or closing, of churns and other vessels used for the conveyance of milk, the labelling of vessels in which milk is sold or offered or exposed for sale or delivered, and the display of the vendor's name and address on any stall, or any cart, barrow or other vehicle, from which milk is sold or delivered.”

2. Amendment of s. 21 of principal Act.—(1) Regulations made under subsection (1) of section twenty-one of the principal Act (which relates to special designations in connection with milk) shall cease to be contained in Milk and Dairies Regulations, and shall be separate regulations, which shall be called Milk (Special Designation) Regulations. [260]

(2) The power of making Milk (Special Designation) Regulations shall, in so far as the regulations relate to raw milk, be exercised jointly by the Minister of Health and the Minister of Agriculture and Fisheries, instead of being exercised by the Minister of Health ; and accordingly any designation prescribed under paragraph (a) of the said subsection (1) in relation to raw milk of any description shall be such as those Ministers consider appropriate. [261]

(3) Regulations made under paragraph (b) of the said subsection (1) shall provide, as respects any special designation of raw milk, for the granting by the Minister of Agriculture and Fisheries, instead of by the Minister of Health

or county councils or local authorities, of licences to producers of raw milk authorising the use of that special designation. [262]

Object of section.—See Preliminary Note, *ante*.

Section 21 (1).—S. 21 (1) of the principal Act enables Milk and Dairies Regulations to contain provisions for the purposes mentioned in the subsection, being purposes relating to the use of special designations in connection with milk.

Special designations.—See the definition of this term in s. 21 (1) (a) of the principal Act.

Milk and Dairies Regulations.—See the notes to s. 1, *ante*.

Raw milk.—This term is defined in s. 8 (1), *post*.

Section 21 (1) (a).—S. 21 (1) (a) of the principal Act enables Milk and Dairies Regulations to be made “prescribing, in relation to milk of any description, such designation . . . as the Minister considers appropriate.”

Section 21 (1) (b).—S. 21 (1) (b) of the principal Act enables Milk and Dairies Regulations to be made “providing, as respects any special designation, for the granting by the Minister, or by county councils or local authorities, of licences to producers and purveyors of milk authorising the use of that special designation.”

Local authorities.—See s. 64 of the principal Act.

3. Amendment of s. 22 of principal Act.—Section twenty-two of the principal Act (which provides for the refusal or cancellation of the registration of persons who apply to be or are registered as retail purveyors of milk) shall extend to all persons who apply to be or are registered in pursuance of Milk and Dairies Regulations by an authority other than the Minister of Agriculture and Fisheries, whether as retail purveyors of milk or not; and accordingly that section shall have effect as set out in the Schedule to this Act. [263]

Principal Act.—The principal Act is the Food and Drugs Act, 1938.

Purveyors of milk.—By s. 100 (1) of the principal Act, “purveyor,” in relation to milk, includes any person who sells milk, whether wholesale or by retail.

Milk and Dairies Regulations.—See the notes to s. 1, *ante*.

Effect of section.—This section, in effect, replaces s. 22 of the principal Act by the section set out in the Schedule to this Act, *post*.

4. Consequential and supplementary amendments.—(1) The power of a county council or local authority under subsection (3) of section sixty-five of the principal Act to institute proceedings under any regulation made under that Act shall not include power to institute proceedings against any person for contravening or failing to comply with Milk and Dairies Regulations in respect of a dairy farm or in respect of the registration of persons carrying on or proposing to carry on the trade of a dairy farmer. [264]

(2) Section ninety-two of the principal Act (which contains supplementary provisions as to Milk and Dairies Regulations and other regulations) shall apply to Milk (Special Designation) Regulations as it applies to Milk and Dairies Regulations but, in its application to Milk (Special Designation) Regulations and Milk and Dairies Regulations, shall have effect subject to the following modifications:—

(a) references to the Minister in subsections (2) and (4) shall, in relation to any Milk (Special Designation) Regulations relating to raw milk and in relation to any Milk and Dairies Regulations, be construed as references to the Minister of Health and the Minister of Agriculture and Fisheries;

(b) subsection (3) (which requires the regulations to specify the authorities by whom they are to be enforced and executed) shall not apply to the enforcement or execution of Milk and Dairies Regulations in respect of dairy farms or in respect of the registration of persons carrying on or proposing to carry on the trade of a dairy farmer, or to the enforcement or execution of Milk (Special Designation) Regulations in respect of the use of a special designation of raw milk by a producer of such milk. [265]

(3) Milk and Dairies Regulations shall provide for the constitution of a central committee, and of county committees for the several administrative

counties, to keep under review the operation and administration of Milk and Dairies Regulations and Milk (Special Designation) Regulations and to make recommendations with respect thereto, in the case of the central committee, to the Minister of Agriculture and Fisheries and, in the case of a county committee, to the central committee. [266]

Object of section.—See the Preliminary Notes, *ante*.

Local authority.—See the definition of this term in s. 64 of the principal Act.

Principal Act.—The principal Act in the Food and Drugs Act, 1938.

Milk and Dairies Regulations.—See notes to s. 1, *ante*.

Dairy farm, dairy farmer.—These terms are defined in s. 8 (1), *post*.

Special designation.—See s. 21 of the principal Act, and s. 2, *ante*.

5. Compensation to displaced officers.—(1) If, in consequence of the passing of this Act or of anything done in pursuance thereof, any officer or servant of a local authority, being a county council or a local authority within the meaning of the principal Act, suffers any direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, he shall be entitled to recover compensation for that loss from that authority :

Provided that no person shall, by virtue of this section, be entitled to recover compensation for any loss if provision is made for compensating him for that loss by or under any other enactment which is for the time being in force.

(2) For the purposes of this section, an officer or servant—

(a) who at any time during the period of five years from the date of the commencement of this Act, relinquishes his office by reason of his having been required to perform duties which are not analogous to, or which are an unreasonable addition to, those which he was required to perform immediately before that date ; or

(b) whose appointment is determined or whose emoluments are reduced during the period aforesaid because his services are not required or his duties are diminished (no misconduct being established) ;

shall be deemed, unless the contrary is shown, to have suffered direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments in consequence of the passing of this Act or of something done in pursuance thereof. [267]

(3) The provisions of the Fourth Schedule to the Local Government Act, 1933, shall have effect in relation to claims for compensation under this section subject to the following modifications, that is to say :—

(a) references in that Schedule to a scheme or order shall be construed as references to this Act ; and

(b) any period during which a person has been engaged in war service shall be reckoned for the purposes of that Schedule as a period of service in his office as therein defined and where any such period is so reckoned his emoluments during that period shall, for the purposes of sub-paragraph (2) of paragraph 4 of the said Schedule, be deemed to be such as he would have received if he had not been engaged in war service. [268]

(4) In this section the expression “ emoluments ” has the same meaning as in the Local Government Act, 1933. [269]

Object of section.—This section makes provision for the payment of compensation to officers and servants of county councils and local authorities who suffer direct pecuniary loss by reason of the transfer of functions under the Act from those authorities to the Minister of Agriculture and Fisheries. Compare this section with s. 95 of the principal Act.

Local authority.—See the definition of this term in s. 64 of the principal Act.

Principal Act.—The principal Act is the Food and Drugs Act, 1938.

War service.—This term is defined in s. 8 (1), *post*.

6. Superannuation rights of officers transferred from local authorities.—

(1) Where a person becomes, within twelve months from the commencement

of this Act, a civil servant on the staff of the Ministry of Agriculture and Fisheries,—

- (a) having been, immediately before he became such a civil servant, a pensionable officer of a local authority ; and
- (b) having been employed by that authority, immediately before the commencement of this Act, in connection with the enforcement or execution of Milk and Dairies Regulations or Milk (Special Designation) Regulations ;

then—

- (i) that authority shall, within three months after his becoming a civil servant, give to the Minister of Agriculture and Fisheries full information as to his previous service, the amount of his emoluments which will be pensionable emoluments for the purposes of the rules made under section nine of the Superannuation Act, 1935 (which relates to the superannuation of transferred officers), and the amount of the superannuation allowance which he may become entitled to receive from the authority ; and
- (ii) if the said rules do not already apply to that authority, those rules shall nevertheless apply in relation to him as if the Treasury, upon the application of the authority, had directed that the rules should apply to the authority. [270]

(2) Where a person to whom subsection (1) of this section does not apply becomes, within twelve months from the commencement of this Act or such further period as the Treasury may approve, a civil servant on the staff of the Ministry of Agriculture and Fisheries,—

- (a) having been, within three months before he became such a civil servant, a person engaged in war service in respect of whom a local authority was required or authorised to pay contributions for superannuation purposes under section four of the Local Government Staffs (War Service) Act, 1939 ; and
- (b) having been employed by that authority, immediately before he became engaged in war service, in connection with the enforcement or execution of the regulations aforesaid ;

then—

- (i) the rules made under the said section nine shall apply in relation to him as if he had been a pensionable officer of that authority immediately before he became a civil servant ; and
- (ii) paragraphs (i) and (ii) of subsection (1) of this section shall apply in relation to him and in relation to that authority as they apply for the purposes of subsection (1) of this section. [271]

(3) In this section—

- (a) the expression “ local authority ” means a county council or local authority within the meaning of the principal Act ;
- (b) the expression “ pensionable officer ”, in relation to a local authority, means an officer or servant of that authority who is a pensionable officer or servant of the authority within the meaning of section nine of the Superannuation Act, 1935 ;
- (c) the expression “ civil servant ” has the meaning assigned to it by section twelve of the Superannuation Act, 1887. [272]

Object of section.—This section makes provision for the transfer of superannuation rights of officers transferred from the service of a local authority (as defined in the section) to that of the Minister of Agriculture and Fisheries or such officers on war service who subsequently become civil servants on the staff of the Minister.

Commencement of the Act.—By s. 9 (2), *post*, the Act is to come into operation on such day as the Minister of Health may by order appoint.

Civil servant, Pensionable officer, Local authority.—These terms are specially defined for the purposes of this section in sub-s. (3).

Milk and Dairies Regulations.—See the notes to s. 1, *ante*.

War service.—This term is defined in s. 8 (1), *post*.

Local authority within the meaning of the principal Act. See s. 64 of the Food and Drugs Act, 1938.

7. Expenses of Minister of Agriculture and Fisheries.—Any expenses incurred by the Minister of Agriculture and Fisheries under this Act shall be defrayed out of moneys provided by Parliament. [273]

8. Interpretation.—(1) In this Act the following expressions have the meanings respectively assigned to them—

“dairy farm” means any farm, cowshed or other premises being a dairy within the meaning of the principal Act on which milk is produced from cows, but does not include any part of any such farm or premises on which milk is manufactured into other products unless the milk produced on the farm or premises forms a substantial part of the milk so manufactured;

“dairy farmer” means a dairyman within the meaning of the principal Act who produces milk from cows;

“principal Act” means the Food and Drugs Act, 1938;

“raw milk” means milk which has not been treated by heat;

“war service” has the same meaning as in the Local Government Staffs (War Service) Act, 1939. [274]

(2) If any question arises whether the milk produced on a farm or other premises forms a substantial part of the milk that is manufactured into other products thereon, that question shall be determined by the Minister of Agriculture and Fisheries. [275]

Premises.—By s. 100 (1) of the principal Act “premises” includes messuages, buildings, land, easements and hereditaments of any tenure.

Dairy.—See the definition of this term in s. 100 (1) of the principal Act.

Principal Act.—The principal Act is the Food and Drugs Act, 1938.

Dairyman.—By s. 100 (1) of the principal Act “dairyman” includes an occupier of a dairy, a cowkeeper, and a purveyor of milk.

9. Short title, citation, and commencement.—(1) This Act may be cited as the Food and Drugs (Milk and Dairies) Act, 1944, and may be cited together with the principal Act as the Food and Drugs Acts, 1938 and 1944. [276]

(2) This Act shall come into operation on such day as the Minister of Health may by order appoint. [277]

SCHEDULE

SECTION 22 OF PRINCIPAL ACT AS AMENDED BY THIS ACT

22. Power to refuse or cancel registration of dairymen.—(1) If it appears to an authority by whom dairymen are registered in pursuance of Milk and Dairies Regulations, other than the Minister of Agriculture and Fisheries, that the public health is, or is likely to be, endangered by any act or default of a person who has applied to be, or is, so registered by the authority, being an act or default, committed whether within or without the district of the authority, in relation to the quality, storage or distribution of milk, they shall serve on him a notice—

(a) stating the place and time, not being less than seven days after the date of the service of the notice, at which they propose to take the matter into consideration; and

(b) informing him that he may attend before them, with any witnesses whom he desires to call, at the place and time mentioned to show cause why they should not, for reasons specified in the notice, refuse to register him or cancel his registration, as the case may be, either generally or in respect of any specified premises.

(2) If a person on whom a notice is served under the preceding subsection fails to show cause to the satisfaction of the authority, they may refuse to register him or cancel his registration, as the case may be, and shall forthwith give notice to him of their decision in the matter, and shall, if so required by him within fourteen days of their decision, give to him within forty-eight hours a statement of the grounds on which it was based.

(3) A person aggrieved by the decision of an authority under this section to refuse to register him, or to cancel his registration, may appeal to a court of summary jurisdiction.

(4) The court before which a person registered as a dairyman otherwise than by the Minister of Agriculture and Fisheries is convicted of an offence under any of the provisions of this Act relating to milk, or under any Milk and Dairies Regulations may, in addition to any other penalty, cancel his registration as such.

(5) An authority other than the Minister of Agriculture and Fisheries may require a person who applies to them for registration as a dairyman to give to them, before his application is considered, information as to whether he is, or has been, registered as a dairyman, whether by them or the Minister of Agriculture and Fisheries or some other authority, and if an applicant who is so required gives to the authority any information which is false in any material respect, he shall be guilty of an offence.

(6) Where under this section a person's application for registration is refused, or his registration is cancelled, he shall not be liable for any breach of a contract for the purchase of further supplies of milk from another person, if such refusal or cancellation was due to the quality of the milk supplied by that person. [278]

ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 60CAA TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 1311

November 23, 1944

After Regulation sixty CA of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

60CAA.—(1) The sale of citrus fruit or the importation of citrus fruit into the United Kingdom shall not constitute a contravention of Article 4 of the Public Health (Preservatives, etc., in Food) Regulations, 1925, or, as the case may be, Article 11 of those Regulations, by reason only that, in consequence of it being wrapped outside the United Kingdom in wrappers treated with diphenyl, the fruit contains diphenyl :

Provided that this paragraph shall not apply to the importation of citrus fruit into the United Kingdom unless the importation is authorised by or on behalf of the Minister of Food and the wrappers only contain such quantity of diphenyl as is so authorised.

(2) Where any person, under the authority and in accordance with the terms of a licence granted for the purposes of this Regulation by or on behalf of the Minister of Food, manufactures for sale any of the following articles of food, that is to say :—

- (a) meat which contains sulphur dioxide ;
- (b) margarine which contains borax ;
- (c) bacon which contains borax ;
- (d) dehydrated vegetables which contain sulphur dioxide ;
- (e) jam which contains sulphur dioxide,

the manufacture of the article or the sale by any person of the article shall not constitute a contravention of Article 4 of the said Regulations by reason only

that, in the case of jam, the article contains sulphur dioxide exceeding the proportion specified in Part I of the First Schedule to the said Regulations or, in any other case, by reason only that the article contains sulphur dioxide or borax, as the case may be.

(3) The sale of any article of food mentioned in paragraph (2) of this Regulation which has been manufactured by the Minister of Food shall not constitute a contravention of Article 4 of the said Regulations.

(4) Where the importation into the United Kingdom of bacon or of any article of food in the manufacture of which bacon has been used is authorised by or on behalf of the Minister of Food, the importation shall not constitute a contravention of Article 11 of the said Regulations by reason only that the imported bacon contains borax not exceeding such quantity as may be so authorised or, as the case may be, by reason only that the imported article of food contains borax necessarily introduced by the use in its manufacture of bacon which contained borax not exceeding such quantity as may be so authorised.

(5) Where the importation into the United Kingdom of dehydrated vegetables or of any article of food in the manufacture of which dehydrated vegetables have been used is authorised by or on behalf of the Minister of Food, the importation shall not constitute a contravention of Article 11 of the said Regulations by reason only that the imported dehydrated vegetables contain sulphur dioxide not exceeding such quantity as may be so authorised or, as the case may be, by reason only that the imported article of food contains sulphur dioxide necessarily introduced by the use in its manufacture of dehydrated vegetables which contained sulphur dioxide not exceeding such quantity as may be so authorised.

(6) The manufacture for sale or sale of any article of food which contains any sulphur dioxide or borax necessarily introduced by the use in its manufacture of—

- (a) any meat, margarine, bacon, dehydrated vegetables or jam the manufacture or sale of which is made lawful by paragraph (2) of this Regulation ;
- (b) any meat, margarine, bacon, dehydrated vegetables or jam manufactured by the Minister of Food ;
- (c) any bacon the importation of which is made lawful by paragraph (4) of this Regulation ; or
- (d) any dehydrated vegetables the importation of which is made lawful by paragraph (5) of this Regulation ;

shall not constitute a contravention of Article 4 of the said Regulations by reason only that the article contains sulphur dioxide or borax, as the case may be, necessarily introduced as aforesaid.

(7) The sale of any article of food the importation of which is made lawful by paragraph (4) or paragraph (5) of this Regulation shall not constitute a contravention of Article 4 of the said Regulations.

(8) Article 4 of the Public Health (Condensed Milk) Regulations, 1923 (which imposes in respect of sales of condensed milk certain requirements as to the labelling of containers and the quality of the contents) shall not apply to the sale, or the dispatch or delivery to any purchaser, broker or agent, of any full cream unsweetened condensed milk intended for human consumption which—

- (a) is sold, dispatched or delivered under and in accordance with the terms of a licence granted by or on behalf of the Minister of Food for the purpose of this Regulation ; or
- (b) being imported milk, contains not less than 7·8 per cent. by weight of milk fat and not less than 25·5 per cent. by weight of all milk solids including fat.

(9) Article 9 of the said Regulations (which imposes similar requirements in respect of the importation of condensed milk) shall not apply to the importation of any full cream unsweetened condensed milk intended for human consumption which is imported under and in accordance with the terms of a licence granted by or on behalf of the Minister of Food for the purpose of this Regulation.

(10) Section three of the Agricultural Produce (Grading and Marking) Act, 1928 (which provides for the marking of preserved eggs) shall not apply to—

- (a) any hen or duck eggs in shell which have been laid in the United Kingdom ; or
- (b) any hen or duck eggs in shell which have been imported into the United Kingdom from the United States of America or from any of His Majesty's Dominions, except eggs which have been marked with the word "cooking" in pursuance of any law of the Union of South Africa relating to the export of eggs.

(11) The operation of section four of the Agricultural Produce (Grading and Marking) Act, 1928 (which provides for the registration of premises used for the cold storage or chemical storage of eggs and for the marking of British eggs which have been kept in such premises) shall be suspended during the continuance in force of this Regulation.

(12) In this Regulation the following expressions have the meanings hereby respectively assigned to them, that is to say—

"bacon" includes hams and any other part of the carcase of a pig (except the offals, the feet and the head without the chops) which—

- (a) has been subjected to a dry-curing process, or to a process of pickling for a period exceeding forty-eight hours, or has matured after removal from pickle for a period exceeding forty-eight hours ; or
- (b) has been cured in any other way but is not pickled pork ;

"condensed milk", "import", "sell" and "sulphur dioxide" have, for the purposes of any provision of this Regulation relaxing the requirements of any Regulations, the same meanings as in those Regulations ;

"jam" includes marmalade and fruit jelly prepared in the way in which jam is prepared ;

"manufacture" in relation to an article of food which contains a preservative, includes any process by which the preservative is added ;

"meat" means any description of meat (including edible offals) derived from cattle, calves, sheep, lambs or pigs, but does not include bacon.

(13) References in this Regulation to any Regulations shall be construed as referring to those Regulations as amended by any subsequent Regulations whether made before or after the making of this Regulation.

(14) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

- (a) for the references to Article 4 and Article 11 of, and the First Schedule to, the Public Health (Preservatives, etc., in Food) Regulations, 1925, there shall be substituted respectively references to Article 4 and Article 10 of, and the First Schedule to, the Public Health (Preservatives, etc., in Food) Regulations (Scotland), 1925 ; and
- (b) for the references to Article 4 and Article 9 of the Public Health (Condensed Milk) Regulations, 1923, there shall be substituted respectively references to Article 5 and Article 12 of the Public Health (Condensed Milk) Regulations (Scotland), 1931.

(15) This Regulation shall, in its application to Northern Ireland, have effect subject to the following modifications :—

- (a) for the references to Article 4 and Article 11 of, and the First Schedule to, the Public Health (Preservatives, etc., in Food) Regulations, 1925, there shall be substituted respectively references to Article 4 and Article 11 of, and the First Schedule to, the Public Health (Preservatives, etc., in Food) (Northern Ireland) Regulations, 1927; and
- (b) for the reference to Article 4 of the Public Health (Condensed Milk) Regulations, 1923, there shall be substituted a reference to Article 4 of the Public Health (Condensed Milk) Regulations, 1925.” [279]

Note as to S. R. & O., 1944, No. 1311.—Regulation 4 of the Public Health (Preservatives, etc., in Food) Regulations, 1925 prohibits the manufacture and sale of articles of food containing preservatives, with a saving for the use of certain preservatives in the prescribed proportions in the manufacture of certain articles of food. Regulation 11 contains a similar prohibition in relation to the importation of food. Paragraphs (1) to (7) of the new Regulation 60CAA relax the above prohibitions in the case of the articles of food and the preservatives mentioned in the paragraphs.

Paragraphs (8) and (9) of the new Regulation relax certain requirements relating to condensed milk. Article 4 of the Public Health (Condensed Milk) Regulations, 1923, prohibits the sale, dispatch or delivery of condensed milk unless it is labelled in the prescribed manner so as to indicate whether it is full cream milk or skimmed milk or whether it is sweetened or unsweetened: the Article also lays down minimum standards of quality for each of the four categories. Article 9 of the said Regulations contains similar requirements in relation to the importation of condensed milk. These Articles are excluded by paragraph (8) and paragraph (9) of the new Regulation in cases where a licence has been granted by the Minister of Food or where certain other conditions are complied with.

Paragraphs (10) and (11) of the new Regulation relax certain requirements of the Agricultural Produce (Grading and Marking) Act, 1928. Paragraph (10) exempts the eggs referred to in that paragraph from s. (3) of the Act which provides that it shall not be lawful to sell or expose for sale any preserved egg unless the egg is marked in the prescribed manner. Paragraph (11) suspends s. 4 of the Act which provides for the registration of premises used for the cold storage or chemical storage of eggs and for the marking of British eggs which have been kept in such premises.

THE FOOD STANDARDS (GENERAL PROVISIONS) ORDER, 1944

S. R. & O., 1944, No. 42

January 14, 1944

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food (hereinafter referred to as “the Minister”) hereby makes the following Order :—

1. Where the Minister, pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, prescribes a standard for regulating the composition of any description of food, the following provisions of this Order shall have effect. [280]

2.—(1) Subject to the provisions of this Article no person shall sell or offer or expose for sale any description of food for which a standard has been so prescribed and is in force and applicable to such a sale, or any food which is so described as to lead an intending purchaser to believe that he is purchasing food of a description for which such a standard is in force, unless the food complies with that standard.

(2) Paragraph (1) of this Article shall not apply to the sale or offering or exposing for sale—

- (a) of any food to any Department of His Majesty's Government;

- (b) of food imported into the United Kingdom the property in which was at the time of its importation vested in, or which was at that time consigned directly to, His Majesty or a Department of His Majesty's Government or a person acting as agent for His Majesty or for a Department of His Majesty's Government, in connection with any of the purposes specified in sub-section (1) of section one of the Emergency Powers (Defence) Act, 1939. [281]

3.—(1) In any proceedings in respect of an infringement of this Order, the production by one of the parties of a document purporting to be a certificate of a public analyst or the Government Chemist or of a document supplied to him by the other party as being a copy of such a certificate shall be sufficient evidence of the facts stated therein unless, in the first-mentioned case, the other party requires that the person making the analysis shall be called as a witness.

(2) In any such proceedings, if a defendant intends to produce a certificate of a public analyst or the Government Chemist, or to require that the person who made the analysis shall be called as a witness, he shall give to the other party at least 3 clear days' notice of his intention. [282]

4.—(1) A person against whom proceedings are brought in respect of an infringement of this Order shall, upon information duly laid by him and on giving to the prosecution not less than three clear days' notice of his intention, be entitled to have any person to whose act or default he alleges that the contravention of the provisions in question was due brought before the court in the proceedings, and if after the contravention has been proved, the original defendant proves that the contravention was due to the act or default of that other person, that other person may be convicted of the offence, and, if the original defendant further proves that he has used all due diligence to secure that the provisions in question were complied with, he shall be acquitted of the offence.

(2) Where a defendant seeks to avail himself of the provisions of the preceding paragraph—

- (a) the prosecution, as well as the person whom the defendant charges with the offence, shall have the right to cross-examine him, if he gives evidence, and any witness called by him in support of his pleas, and to call rebutting evidence ;
- (b) the court may make such order as it thinks fit for the payment of costs by any party to the proceedings to any other party thereto.

(3) Where it appears to the Minister or other authority entitled to bring proceedings for an infringement of this Order, that an offence has been committed in respect of which proceedings might be taken for an infringement of this Order against some person and the Minister or other authority is reasonably satisfied that the offence of which complaint is made was due to the act or default of some other person and that the first-mentioned person could establish a defence under paragraph (1) of this Article, he or they may cause proceedings to be taken against that other person without first causing proceedings to be taken against the first-mentioned person.

In any such proceedings the defendant may be charged with and, on proof that the contravention was due to his act or default, be convicted of, the offence with which the first-mentioned person might have been charged. [283]

5.—(1) Where in any prosecution a person is charged with an infringement of this Order in respect of the sale or offering or exposing for sale of any food, it shall be a defence for him to prove—

- (a) that he purchased the food to which the proceedings relate with a written warranty to the effect that such food could be so sold or offered or exposed for sale without infringing this Order ; and

(b) that he had no reason to believe otherwise at the time of the commission of the alleged offence ; and

(c) that the food was then in the same state as when he purchased it.

(2) A warranty shall only be a defence to such proceedings if the defendant has written fourteen days of the service of the summons sent to the prosecutor a copy of the warranty with a notice stating that he intends to rely on it and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to that person.

(3) Where the defendant is a servant of the person who purchased the food under a warranty, he shall be entitled to rely on the provisions of this Article in the same way as his employer would have been entitled to do if he had been the defendant.

(4) The person by whom the warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.

(5) A name or description entered in an invoice or marked on a wrapper or container or on any label affixed to a wrapper or container shall be deemed to be a written warranty that the food to which the entry or marking refers is such that a person can sell or otherwise deal with it under that name or description without infringing this Order. [284]

6. This Order shall in its application to Scotland have effect subject to the following modifications :—

(a) for Article 4 there shall be substituted the following Article :—

4.—(1) Where a person charged with a contravention of any of the provisions of this Order proves to the satisfaction of the Court that he has used all due diligence to secure compliance with those provisions and that the offence was due to the act or default of some other person, the first-mentioned person shall be acquitted of the offence.

(2) Where an offence has been committed in respect of which proceedings might be taken for an infringement of this Order against some person and the offence was due to an act or default of some other person, then, whether proceedings are or are not taken against the first-mentioned person, that other person may be charged with and convicted of the offence, and shall be liable on conviction to the like punishment as might have been inflicted on the first-mentioned person if he had been convicted of the offence.

(b) for the reference to a summons in paragraph (2) of Article 5 there shall be substituted a reference to a complaint. [285]

7. This Order shall in its application to Northern Ireland have effect subject to the following modifications :—

(a) the expression “ Department of His Majesty’s Government ” shall include a Department of the Government of Northern Ireland ;

(b) for the references in Article 3 to the Government Chemist there shall be substituted a reference to the Government Chemist for Northern Ireland. [286]

8. Infringements of this Order are offences against the Defence (Sale of Food) Regulations, 1943. [287]

9. This Order may be cited as the Food Standards (General Provisions) Order, 1944. [288]

* * * * *

Note as to S. R. & O., 1944, No. 42.—*This Order is issued under the powers given to the Minister of Food by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and lays down the general provisions which will be applicable in relation to the food standards to be created in*

accordance with the policy indicated in paragraph 7 of the White Paper on The Labelling and Advertising of Foods (Cmd. 6482). The Order provides that, subject to specified exceptions, when a standard is prescribed under Regulation 2 of the Defence (Sale of Food) Regulations for any description of food, it is an offence to sell a food under that description, or under a description so similar as to lead a purchaser to believe he is purchasing food of that description, unless it complies with the standard. Standards for various foods are to be prescribed by separate Orders from time to time.

The procedure in regard to entry and inspection of premises and taking samples, applicable for the purposes of this Order, is that contained in the Defence (Sale of Food) Regulations, 1943. The present Order also provides a warranty defence and a defence that some other person is responsible for the commission of the offence; these are similar to the corresponding defences contained in the Food and Drugs Act, 1938. Although under Regulation 5 (1) of the Defence (Sale of Food) Regulations, 1943, proceedings in respect of infringements of this Order may only be instituted with the Minister's prior consent, the individual commodity Orders may contain a provision dispensing with this requirement.

THE FOOD STANDARDS (MUSTARD) ORDER, 1944

S. R. & O., 1944, No. 43

January 14, 1944

Note.—This Order was revoked before coming into force by S. R. & O. 1944, No. 275, p. 152, *post*.

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. In this Order—

“The Minister” means the Minister of Food.

“Brown mustard flour” means the product obtained by grinding whole seeds (with or without their husks) of *Brassica nigra* (Linn.) Koch or *Brassica juncea* (Linn.) Czernj. and Cosson and a mixture of such varieties of seeds.

“Sale by retail” means any sale to a person buying otherwise than for the purpose of resale and includes a sale to a caterer for the purposes of his catering business, but does not include a sale to a manufacturer for the purposes of his manufacturing business.

“Sale by wholesale” means, in relation to any article, any sale other than a sale by the manufacturer thereof and other than a sale by retail.

“White mustard flour” means the product obtained by grinding whole seeds (with or without their husks) of *Sinapis alba* (Linn.) [289]

2. Pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, the Minister hereby prescribes—

- (a) that the standard for mustard of any description in powder form or table mustard shall be as specified in paragraph 1 of the Schedule to this Order;

Provided that such standard shall not apply to white mustard flour sold under the description “pickling mustard”, nor to brown mustard flour sold under the description “brown mustard”.

- (b) that the standard for compound mustard condiment shall be as specified in paragraph 2 of the Schedule to this Order. [290]

3. Proceedings in England and Northern Ireland for an infringement of Article 2 of the Food Standards (General Provisions) Order, 1944, in respect of any article for which a standard is prescribed by this Order may be brought by a Food and Drugs Authority without the consent of the Minister. [291]

4. The standards prescribed by this Order shall come into force—

- (a) in respect of sales by the manufacturer of the article, on the 16th day of March, 1944;

- (b) in respect of sales by wholesale, on the 16th day of May, 1944 ;
 (c) in respect of sales by retail, on the 16th day of July, 1944. [292]

5. This Order may be cited as the Food Standards (Mustard) Order, 1944.
 [293]

* * * * *

THE SCHEDULE

STANDARDS FOR MUSTARD

1. Mustard of any description in powder form shall be of such composition as to yield not less than 0.35 per cent. of allyl isothiocyanate after maceration with water for two hours at 37° Centigrade and shall consist of a blend of brown and white mustard flours without other ingredients.

2. Compound mustard or mustard condiment shall be of such composition as to yield not less than 0.35 per cent. of allyl isothiocyanate after maceration with water for two hours at 37° Centigrade and shall consist of a blend of brown and white mustard flours with amylaceous flours and/or spices : provided that the proportions of amylaceous flours and spices shall not together exceed 20 per cent. by weight.
 [294]

Note as to S. R. & O., 1944, No. 43.—This Order, which should be read with the Food Standards (General Provisions) Order, 1944, prescribes standards for mustard of any description in powder form, and compound mustard or mustard condiment, but the standards do not apply to white mustard flour sold under the description "pickling mustard" nor to brown mustard flour sold under the description "brown mustard."

THE FOOD STANDARDS (SELF-RAISING FLOUR) ORDER, 1944

S. R. & O., 1944, No. 44

January 14, 1944

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. In this Order—

“ The Minister ” means the Minister of Food.

“ Sale of retail ” means any sale to a person buying otherwise than for the purpose of resale and includes a sale to a caterer for the purposes of his catering business, but does not include a sale to a manufacturer for the purposes of his manufacturing business.

“ Sale by wholesale ” means, in relation to self-raising flour, any sale other than a sale by the manufacturer thereof and other than a sale by retail. [295]

2. Pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, the Minister hereby prescribes that the standard for self-raising flour shall, as respects carbon dioxide, be as specified in the Schedule to this Order.
 [296]

3. Proceedings in England and Northern Ireland for an infringement of Article 2 of the Food Standards (General Provisions) Order, 1944, in respect of self-raising flour may be brought by a Food and Drugs Authority without the consent of the Minister. [297]

4. The standard prescribed by this Order shall come into force—

- (a) in respect of sales by the manufacturer of the self-raising flour, on the 16th day of March, 1944 ;

- (b) in respect of sales by wholesale, on the 16th day of May, 1944 ;
(c) in respect of sales by retail, on the 16th day of July, 1944. [298]

5. This Order may be cited as the Food Standards (Self-raising Flour) Order, 1944. [299]

* * * * *

THE SCHEDULE

SELF-RAISING FLOUR

Carbon Dioxide Standard

1. Self-raising flour shall yield not less than 0.45 per cent. of available carbon dioxide and not more than 0.65 per cent. of total carbon dioxide, the available carbon dioxide and the total carbon dioxide being determined in the manner specified in paragraph 2 of this Schedule.

2.—(1) The total carbon dioxide shall be determined by ascertaining the weight thereof evolved when the self-raising flour is treated with excess of dilute sulphuric acid at room temperature, the evolution being completed either by boiling for five minutes or by means of reduced pressure.

(2) The available carbon dioxide shall be determined by ascertaining the difference between the total carbon dioxide and the residual carbon dioxide ; and the residual carbon dioxide shall be determined in the following manner :—

The self-raising flour shall be treated with water first for twenty minutes at room temperature then for twenty minutes on a boiling water bath and subsequently by boiling for one minute. The residual carbon dioxide is the weight thereof evolved when the self-raising flour so treated is further treated with excess of dilute sulphuric acid at room temperature, the evolution being completed either by boiling for five minutes or by means of reduced pressure. [300]

Notes as to S. R. & O., 1944, No. 44.—*This Order, which should be read with the Food Standards (General Provisions) Order, 1944, prescribes a standard for self-raising flour.*

THE FOOD STANDARDS (SHREDDED SUET) ORDER, 1944

S. R. & O., 1944, No. 45

January 14, 1944

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. In this Order—

“ The Minister ” means the Minister of Food.

“ Sale by retail ” means any sale to a person buying otherwise than for the purpose of resale and includes a sale to a caterer for the purposes of his catering business, but does not include a sale to a manufacturer for the purposes of his manufacturing business.

“ Sale by wholesale ” means, in relation to shredded suet, any sale other than a sale by the manufacturer thereof and other than a sale by retail. [301]

2. Pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, the Minister hereby prescribes that the standard for shredded suet shall, as respects the fat contained therein, be as follows, that is to say :—

Not less than 83 per cent. by weight of the shredded suet shall consist of fat. [302]

3. Proceedings in England and Northern Ireland for an infringement of Article 2 of the Food Standards (General Provisions) Order, 1944, in respect of shredded suet may be brought by a Food and Drugs Authority without the consent of the Minister. [303]

4. The standard prescribed by this Order shall come into force—

- (a) in respect of sales by the manufacturer of the shredded suet, on the 16th day of March, 1944 ;
- (b) in respect of sales by wholesale, on the 16th day of May, 1944 ;
- (c) in respect of sales by retail, on the 16th day of July, 1944. [304]

5. This Order may be cited as the Food Standards (Shredded Suet) Order, 1944. [305]

* * * * *

Note as to S. R. & O., 1944, No. 45.—This Order, which should be read with the Food Standards (General Provisions) Order, 1944, prescribes a standard for the fat content of shredded suet.

THE FOOD STANDARDS (BAKING POWDER AND GOLDEN RAISING POWDER) ORDER, 1944

S. R. & O., 1944, No. 46

January 14, 1944

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. In this Order—

“ The Minister ” means the Minister of Food.

“ Sale by retail ” means any sale to a person buying otherwise than for the purpose of resale and includes a sale to a caterer for the purposes of his catering business, but does not include a sale to a manufacturer for the purposes of his manufacturing business.

“ Sale by wholesale ” means, in relation to baking powder or golden raising powder, any sale other than a sale by the manufacturer thereof and other than a sale by retail. [306]

2. Pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, the Minister hereby prescribes that the standards for baking powder and golden raising powder shall, as respects carbon dioxide, be as specified in the Schedule to this Order. [307]

3. Proceedings in England and Northern Ireland for an infringement of Article 2 of the Food Standards (General Provisions) Order, 1944, in respect of baking powder and golden raising powder may be brought by a Food and Drugs Authority without the consent of the Minister. [308]

4. The standards prescribed by this Order shall come into force—

- (a) in respect of sales by the manufacturer of the baking powder or golden raising powder, on the 16th day of March, 1944 ;
- (b) in respect of sales by wholesale, on the 16th day of May, 1944 ;
- (c) in respect of sales by retail, on the 16th day of July, 1944. [309]

5. This Order may be cited as the Food Standards (Baking Powder and Golden Raising Powder) Order, 1944. [310]

* * * * *

THE SCHEDULE

BAKING POWDER AND GOLDEN RAISING POWDER

Carbon Dioxide Standards

1. Baking powder shall yield not less than 8 per cent. of available carbon dioxide and not more than 1.5 per cent. of residual carbon dioxide, the available carbon dioxide and the residual carbon dioxide being determined in the manner specified in paragraph 3 of this Schedule.

2. Golden raising powder shall yield not less than 6 per cent. of available carbon dioxide and not more than 1.5 per cent. of residual carbon dioxide, the available carbon dioxide and the residual carbon dioxide being ascertained in the manner specified in paragraph 3 of this Schedule.

3.—(1) The residual carbon dioxide shall be determined in the following manner :—

A sample of 2 grammes of baking powder or golden raising powder, as the case may be, shall be treated with 25 millilitres of water and evaporated to dryness on a boiling water bath and subsequently treated with a further 25 millilitres of water and evaporated in like manner. The residual carbon dioxide is the weight thereof evolved when the same so treated is further treated with excess of dilute sulphuric acid at room temperature, the evolution being completed either by boiling or by means of reduced pressure.

(2) The available carbon dioxide shall be determined by ascertaining the difference between the total carbon dioxide and the residual carbon dioxide ; and the total carbon dioxide shall be determined by ascertaining the weight thereof evolved when the baking powder or golden raising powder, as the case may be, is treated with excess of dilute sulphuric acid at room temperature, the evolution being completed either by boiling for five minutes or by means of reduced pressure. [311]

Note as to S. R. & O., 1944, No. 46.—*This Order, which should be read with the Food Standards (General Provisions) Order, 1944, prescribes standards for baking powder and golden raising powder.*

**ORDER IN COUNCIL ADDING REGULATION 55G TO,
AND AMENDING THE THIRD SCHEDULE TO, THE
DEFENCE (GENERAL) REGULATIONS, 1939**

S. R. & O., 1944, No. 65

January 30, 1944

1. After Regulation fifty-five F of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

55G.—(1) Except with the consent of the Minister, no person shall, within any area specified in that behalf in an order of the Minister (hereinafter in this Regulation referred to as a “specified area”), sell any milk by retail unless either—

- (a) it is sold as Tuberculin Tested milk and is so sold without contravention of the enactments relating to special designations or the conditions of any licence issued thereunder ; or
- (b) it is sold as Accredited milk and is so sold without any such contravention as aforesaid and all the milk so sold by that person is derived from one herd ; or
- (c) it is sold as heat treated milk, pasteurised milk or sterilised milk and is so sold without any contravention of the subsequent provisions of this Regulation, and, in the case of milk sold as pasteurised milk, is also so sold without any contravention of the enactments relating to special designations or the conditions of any licence issued thereunder :

Provided that the Minister shall not specify any area as aforesaid unless he is satisfied that arrangements approved by him or on his behalf for economising the use of men and vehicles in the retail distribution of milk are in force in that area and that those arrangements have the effect of restricting consumers in their choice of the persons by or through whom they can obtain milk.

(2) Except with the consent of the Minister, no person shall, in the course of his business, supply any milk free of cost within a specified area unless the milk supplied could be lawfully sold by him by retail within that area without the consent of the Minister.

(3) No person shall, in connection with the sale, or the supply free of cost in the course of his business, of milk within a specified area, use the description "heat treated milk", the description "pasteurised milk" or the description "sterilised milk" or any other description so closely resembling any of those descriptions as to be calculated to deceive unless—

- (a) the milk has been so treated by heat and otherwise, and is in such condition, as to satisfy the prescribed tests; and
- (b) the said treatment has been applied by a person authorised in that behalf by the Minister:

Provided that, in the case of the descriptions "heat treated milk" and "sterilised milk" or any description so closely resembling either of those descriptions as to be calculated to deceive, this paragraph shall have effect in relation to milk sold or supplied outside a specified area as it has effect in relation to milk sold or supplied within a specified area.

(4) Except with the consent of the Minister, no person shall within a specified area sell by retail, or, in the course of his business, supply free of cost, any milk in a closed container unless either—

- (a) the milk is being sold or, in the case of milk supplied free of cost could be sold by the person supplying it, as Tuberculin Tested milk or Accredited milk without contravention of the enactments relating to special designations or the conditions of any licence issued thereunder; or
- (b) the container bears thereon the words "heat treated" or the word "pasteurised" or the word "sterilised".

(5) The preceding provisions of this Regulation relating to the sale or supply of milk within a specified area shall apply also to any sale or supply of milk outside a specified area at or from an establishment at or from which milk is sold by retail or supplied free of cost within a specified area.

(6) Nothing in paragraph (1) or paragraph (2) of this Regulation shall apply to the resale by a person of milk which has been lawfully sold to him in a specified area, if the resale takes place in the course of a business or a part of a business which consists of the sale of refreshments.

(7) No person shall have any milk in his possession with intent that it shall be sold or supplied free of cost in contravention of any of the provisions of this Regulation.

(8) Nothing in the preceding provisions of this Regulation shall be construed as authorising the use by any person of any description in relation to milk which he could not lawfully have used in relation to that milk if this Regulation had not come into operation.

(9) It shall be the duty of Food and Drugs authorities (as defined in section sixty-four of the Food and Drugs Act, 1938) to enforce, as respects their respective areas, the provisions of this Regulation, and any expenses incurred by them in so doing shall be defrayed in like manner as their expenses in enforcing the said Act:

Provided that nothing in this paragraph shall be construed as restricting the power of the Minister to take such steps as he may think fit to secure the enforcement of this Regulation or any power of any person who would, apart from this paragraph, have power to institute proceedings for offences against this Regulation, to institute such proceedings.

(10) For the purpose of securing the enforcement of this Regulation, any sampling officer within the meaning of section sixty-eight of the Food and Drugs Act, 1938, may, on production of some duly authenticated document showing his authority under that Act,—

- (a) enter and inspect any premises used or appropriated for the purposes of any business or part of a business which consists of or includes the sale of milk by retail ;
- (b) inspect any articles found on any such premises ;
- (c) take samples, for examination or testing, of any milk found on any such premises or in the possession of a person engaged in delivering milk in the course of any such business or part of a business as aforesaid.

(11) Any milk which is delivered in pursuance of a contract of sale shall, for the purposes of this Regulation, be taken to be sold at the place and at the time at which it is so delivered.

(12) In this Regulation, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say,—

“ enactments relating to special designations ” means section three of the Milk and Dairies (Amendment) Act, 1922 (as amended by section ten of the Milk Act, 1934), any order made thereunder, section twenty-one of the Food and Drugs Act, 1938, and the provisions of any Milk and Dairies Regulations made by virtue of the said section twenty-one ;

“ free of cost ” means, in relation to the supply of milk, free of cost to the person to whom it is supplied ;

“ herd ” means a herd as defined for the purposes of the Milk (Special Designations) Order, 1936 ;

“ milk ” means liquid cows’ milk (including separated milk and skimmed milk) but does not include condensed milk or evaporated milk ;

“ the Minister ” means the Minister of Food ;

“ prescribed ” means prescribed by order of the Minister of Health ;

“ sell by retail ” means, in relation to milk, sell the milk otherwise than by wholesale, and “ sell by wholesale ” means, in relation to milk, sell the milk either—

- (a) to a person who buys it to sell it again or supply it free of cost in the course of his business or to sell something made from it or of which it is an ingredient ; or

- (b) to a person who buys it for the purpose of feeding it to livestock :

Provided that a sale of milk to a person who buys it to sell it again, or to sell something made from it or of which it is an ingredient, shall be deemed to be a sale by retail if the resale of the milk or, as the case may be, the sale of the thing made therefrom or of which it is an ingredient is to be effected in the course of a business or a part of a business which consists of the sale of refreshments.

(13) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

- (a) for any reference to the Minister of Health there shall be substituted a reference to the Secretary of State, for any reference to section sixty-eight of the Food and Drugs Act, 1938, there shall be substituted a reference to section sixteen of the Food and Drugs (Adultera-

tion) Act, 1928, and for any reference to the Milk (Special Designations) Order, 1936, there shall be substituted a reference to the Milk (Special Designations) Order (Scotland), 1936 :

- (b) for any reference to Tuberculin Tested milk there shall be substituted a reference to Certified milk or Tuberculin Tested milk and for any reference to Accredited milk there shall be substituted a reference to Standard milk ;

- (c) for paragraph (9) the following paragraph shall be substituted :—

“(9) It shall be the duty of the local authorities for the purpose of the Milk and Dairies (Amendment) Act, 1922, to enforce, within their respective areas, the provisions of this Regulation, and any expense thereby incurred shall be defrayed out of the public health general assessment :

Provided that nothing in this paragraph shall be construed as authorising any local authority to institute proceedings for a contravention of this Regulation.”

- (14) This Regulation shall not extend to Northern Ireland. [312]

2.—(1) In the Third Schedule to the said Regulations (which relates to the manner in which proceedings may be instituted in respect of offences against certain provisions of the Regulations) immediately before the entry relating to Regulation 60Ac there shall be inserted the following entry :—

“Regulation 55G.—By or on behalf of the Minister of Food, and by or on behalf of a Food and Drugs Authority (as defined in section sixty-four of the Food and Drugs Act, 1938) ”.

(2) In the said Third Schedule, in the entry relating to Regulations in Part IV which specifically entrust functions to a Secretary of State or other Minister or to the Admiralty or Board of Trade after the words “ Board of Trade ”, in the first column, there shall be inserted the words “ other than Regulation 55G ”. [313]

Note as to S. R. & O., 1944, No. 65.—*This Order prohibits, except with the consent of the Minister of Food, the sale by retail (as defined), in any area in England specified in an order made by him, of milk which is not “ Tuberculin Tested ”, or “ Pasteurised ” or otherwise heat treated. There is an exception in England, for “ Accredited Milk ” derived from a single herd. The Order also contains certain ancillary provisions, notably requirements as to labelling.*

* * * * *

THE FOOD STANDARDS (MUSTARD) (NO. 2) ORDER, 1944

S. R. & O., 1944, No. 275

March 14, 1944

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. In this Order—

“ The Minister ” means the Minister of Food.

“ Brown mustard flour ” means the product obtained by grinding whole seeds (with or without their husks) of *Brassica nigra* (Linn.) Koch or *Brassica juncea* (Linn.) Czernj. and Cosson or a mixture of such varieties of seeds.

"Sale by retail" means any sale to a person buying otherwise than for the purpose of resale and includes a sale to a caterer for the purposes of his catering business, but does not include a sale to a manufacturer for the purposes of his manufacturing business.

"Sale by wholesale" means in relation to any article, any sale other than a sale by the manufacturer thereof and other than a sale by retail.

"White mustard flour" means the product obtained by grinding whole seeds (with or without their husks) of *Sinapis alba* Linn. [314]

2. Pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, the Minister hereby prescribes that the standard for mustard (including any article described as "white mustard"), compound mustard or mustard condiment shall be as specified in the Schedule to this Order:

Provided that such standard shall not apply—

- (a) to any article not in powder form;
- (b) to any article sold under the description "pickling mustard" and consisting entirely or in part of white mustard flour or brown mustard flour;
- (c) to brown mustard flour sold under the description "brown mustard". [315]

3. Proceedings in England and Northern Ireland for an infringement of Article 2 of the Food Standards (General Provisions) Order, 1944, in respect of any article for which a standard is prescribed by this Order may be brought by a Food and Drugs Authority without the consent of the Minister. [316]

4. The standards prescribed by this Order shall come into force—

- (a) in respect of sales by the manufacturer of the article, on the 16th day of March, 1944;
- (b) in respect of sales by wholesale, on the 16th day of May, 1944;
- (c) in respect of sales by retail, on the 16th day of July, 1944. [317]

5. The Food Standards (Mustard) Order, 1944, is hereby revoked. [318]

6. This Order may be cited as the Food Standards (Mustard) (No. 2) Order, 1944. [319]

* * * * *

THE SCHEDULE

STANDARD FOR MUSTARD, COMPOUND MUSTARD OR MUSTARD CONDIMENT

Mustard, compound mustard or mustard condiment shall be of such composition as to yield not less than 0.35 per cent. of allyl isothiocyanate after maceration with water for two hours at 37° centigrade and shall consist of a blend of brown and white mustard flours with or without amylaceous flours and/or spices: provided that the proportions of amylaceous flours and spices (if any) shall not together exceed 20 per cent. by weight. [320]

Note as to S. R. & O., 1944, No. 275.—This Order, which should be read with the Food Standards (General Provisions) Order, 1944, replaces the Food Standards (Mustard) Order, 1944. It prescribes a single standard for mustard, compound mustard and mustard condiment, but makes it clear that the standard does not apply to—

- (a) any article not in powder form;
- (b) any article sold under the description "pickling mustard" and consisting wholly or in part of white mustard flour or brown mustard flour.

As before, the standard also does not apply to brown mustard flour sold under the description "brown mustard."

THE HEAT-TREATED MILK (PRESCRIBED TESTS) ORDER, 1944

S. R. & O., 1944, No. 349

March 23, 1944

Whereas by Regulation 55G of the Defence (General) Regulations, 1939 restrictions are placed on the use in relation to milk of the descriptions "heat-treated milk", "pasteurised milk" or "sterilised milk" or of any other description so closely resembling any of those descriptions as to be calculated to deceive unless (*inter alia*) the milk has been so treated by heat and otherwise and is in such condition as to satisfy tests prescribed by the Minister of Health :

Now therefore the Minister of Health orders as follows :—

1. This order may be cited as the Heat-Treated Milk (Prescribed Tests) Order, 1944. [321]

2. These tests to be satisfied as aforesaid shall be a phosphatase test and a methylene blue test which shall respectively be carried out in the manner following :—

- (a) The phosphatase test shall be carried out in accordance with Part I of the schedule hereto. Such test shall be deemed to be satisfied by milk giving a reading of 2.3 Lovibond blue units or less.
- (b) The methylene blue test shall be carried out in accordance with Part II of the said schedule. Such test shall be deemed to be satisfied by milk which fails to decolourise methylene blue in thirty minutes. The milk to be tested shall be kept at atmospheric shade temperature until it reaches the laboratory and shall there be kept at atmospheric shade temperature not exceeding 65° Fahrenheit until the test is begun. The test shall be begun not earlier than nine in the forenoon and not later than ten in the forenoon on the day after the sample has been taken. [322]

SCHEDULE

PART I—THE PHOSPHATASE TEST

REAGENTS

Buffer-substrate : Buffer-substrate solution must be prepared at the strength of 1.09 gm. of disodium phenyl phosphate and 11.54 gm. of sodium diethyl barbiturate in 1 litre of distilled water saturated with chloroform. Alternatively, buffer-substrate tablets may be used to make up a solution of the same strength and a few drops of chloroform added. The solutions must be kept in a cool, dark place and must not be kept longer than three days.

Test reagent : Add 1 volume of Polin and Ciocalteu's reagent to 2 volumes of a 5 per cent. solution of sodium hexametaphosphate.

METHOD OF CARRYING OUT THE TEST

To 10 ml. of the buffer-substrate solution contained in a test tube, add 0.5 ml. of well-mixed milk. Add 3 drops of chloroform, stopper the tube, mix the contents and incubate at $37 \pm 1^\circ \text{C}$. for 24 ± 2 hours. At the end of this time, cool, add 4.5 ml. of the test reagent, mix, allow to stand for three to five minutes, and filter into a test tube marked at 10 ml. To 10 ml. of the filtrate, add 2 ml. of a 14 per cent. solution of pure anhydrous sodium carbonate, mix and place the test tube for exactly two minutes in boiling water (kept boiling). Cool and read the colour, using a comparator or a tintometer.

Control Tests

Keep the remainder of all milk samples in the refrigerator. *After completing the test* carry out control tests on those samples which have given a positive phosphatase reaction.

Mix thoroughly to 10 ml. of the buffer-substrate solution with 4.5 ml. of the test reagent, add 0.5 ml. of milk and mix. Allow to stand for three to five minutes, and filter into a test tube marked at 10 ml. To 10 ml. of the filtrate, add 2 ml. of the sodium carbonate solution, mix and place the tube for exactly two minutes in a boiling water bath (kept boiling). Cool and read the colour developed. The colour must not exceed 1.5 Lovibond blue units.

Precautions

- (a) Phenols, disinfectants containing phenols, and soap containing carbolic acid must be kept at a safe distance from the test reagents and apparatus;
- (b) the use of bottle caps made from phenolic resins must be avoided ;
- (c) new rubber stoppers must be tested for phenolic impurities before use ;
- (d) all glassware must be clean ;
- (e) contamination of pipettes by saliva must be avoided ;
- (f) a fresh pipette must be used for each sample of milk ;
- (g) all reagents must be kept in a cool, dark place and well protected from dust ;
- (h) tests must not be carried out in direct sunlight ;
- (i) freshly boiled distilled water must be used throughout ;
- (j) samples which show a taint or clot on boiling must not be tested.

TESTS OF REAGENTS

The purity of the reagents must be tested by performing a blank test without milk, with each batch of samples tested. The colour must not exceed 0.5 Lovibond blue units.

PART II—THE METHYLENE BLUE TEST

SAMPLING

Except where a sample consists of an unopened bottle or carton, the milk to be sampled must be well mixed and the sample must be collected with aseptic precautions in a sterile bottle.

REAGENTS AND APPARATUS

(a) *Methylene Blue*.—Tablets manufactured under arrangements made by the Minister of Health must be used. Add one tablet to 200 ml. of cold sterile glass-distilled water in a sterile flask and shake until the tablet is completely dissolved. After the tablet has dissolved make up the solution to 800 ml. with cold sterile glass-distilled water and store in a stoppered flask in a cool, dark place. The solution must be stored in the dark and not kept for longer than two months. When in use it must at no time be exposed to sunlight.

(b) *Test-Tubes*.—Test-tubes conforming to the British Standard Specification 152/16, nominal $6'' \times \frac{3}{8}''$, having an internal diameter of 13.5×0.5 mm. and an etched mark indicating 10 ml. must be used. Test-tubes must be plugged with cotton wool, covered with closely-fitting aluminium caps, or otherwise stored so as to avoid contamination.

(c) *Rubber stoppers*.—These must be sterilised before use.

(d) *Pipettes*.—1 ml. straight-sided blow-out delivery pipettes must be used for measuring the methylene blue solution. The pipettes must be plugged with cotton wool at the upper end, and be sterilised.

METHOD OF CARRYING OUT THE TEST

Thoroughly mix the sample of milk by inverting and shaking the sample bottle and pour the milk into a sterile test-tube up to the 10 ml. mark, leaving one side of the interior unwetted with milk. Add 1 ml. of methylene blue solution without letting the pipette come into contact with the milk in the tube or with the wetted side of the interior of the tube. After the lapse of 3 seconds, blow out the solution remaining in the tip of the pipette. Close the tube with a sterile rubber stopper with aseptic precautions. Invert the tube slowly twice, so that the whole column of contained air rises above the level of the milk, and place within five minutes in a

water bath. The water in the bath must be kept above the level of the milk in the test-tubes, and its temperature, which must be between 37° C. and 38° C., must be maintained as nearly uniform as possible by means of a reliable automatic thermostat. The interior of the bath must be kept completely dark.

To show when decolourisation is complete a control tube must be used with each batch for comparison with the experimental tubes. The control tube is prepared by immersing in boiling water for 3 minutes a stopped test tube containing 10 ml. of mixed milk from a number of samples + 1 ml. of tap water. The milk used for the control tubes must be approximately of the same fat-content and colour as that being tested.

The milk is to be regarded as decolourised when the whole column of milk is completely decolourised or is completely decolourised up to within 5 mm. of the surface. A trace of colour at the bottom of the tube which does not extend upwards for more than 5 mm. may be ignored.

Precautions

The methylene blue solution when not in use must be kept in the dark ; it must at no time be exposed to direct sunlight.

The amount of methylene blue required for a day's work must be poured off from the stock bottle into a suitable glass container. The pipette used for transferring the methylene blue solution to the tubes of milk must not be introduced into the stock bottle. [323]

* * * * *

ORDER, DATED JUNE 1, 1944, AMENDING THE FOOD STANDARDS (GENERAL PROVISIONS) ORDER, 1944

S. R. & O., 1944, No. 654

June 1, 1944

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food hereby makes the following Order :—

1. The Food Standards (General Provisions) Order, 1944, shall be amended as follows :—

(a) by substituting for Article 1 and Article 2 thereof the following Articles :—

“ 1.—(1) Where the Minister pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, shall have prescribed a standard for regulating the composition of any kind of food, no person shall sell or offer or expose for sale (if such standard is in force in respect of such a sale) any food under such a description as to lead an intending purchaser to believe he is purchasing that kind of food, unless the food complies with such standard.

(2) Where a person sells food to a purchaser in response to a request for food of a kind for which a standard is so prescribed, he shall be deemed to sell food of that kind and under such a description as is specified in the last preceding paragraph unless he clearly notifies the purchaser at the time of sale that the food is not of that kind.

2. Article 1 of this Order shall not apply to the sale or offering or exposing for sale—

(a) of any food to any Department of His Majesty's Government ;

- (b) of food imported into the United Kingdom the property in which was at the time of its importation vested in, or which was at that time consigned directly to, His Majesty or a Department of His Majesty's Government or a person acting as agent for His Majesty or for a Department of His Majesty's Government, in connection with any of the purposes specified in sub-section (1) of section one of the Emergency Powers (Defence) Act, 1939";
- (b) by inserting at the end of Article 9 thereof the words " and this Order, the Food Standards (Self-Raising Flour) Order, 1944, the Food Standards (Shredded Suet) Order, 1944, the Food Standards (Baking Powder and Golden Raising Powder) Order, 1944, and the Food Standard (Mustard) (No. 2) Order, 1944, may together be cited as the Food Standards Order, 1944 ". [324]

* * * * *

Note as to S. R. & O., 1944, No. 654.—*To remove doubts as to the effect of the Food Standards (General Provisions) Order, 1944, this amending Order is intended to make it clear that where standards are prescribed they shall apply only—*

- (a) *where the food sold is so described as to lead an intending purchaser to believe that he is getting food of a kind for which a standard is prescribed,*
 (b) *where the food is sold in response to a request for food of a kind for which a standard is prescribed.*

THE PRESERVES ORDER, 1944

S. R. & O., 1944, No. 841

July 17, 1944

In exercise of the powers conferred upon him by Regulation 55 and 55AA of the Defence (General) Regulations, 1939, and of all other powers him enabling, the Minister of Food hereby makes the following Order:—

PART I—INTERPRETATION

1.—(1) In this Order—

"The Minister" means the Minister of Food.

"Buy" includes offer or agree to buy and "sell" includes offer or agree to sell or expose for sale.

"Catering business" includes the business or undertaking of an inn, public house, hotel, restaurant, buffet, coffee stall or of any place of refreshment open to the public, or of any club, boarding house, refreshment contractor or canteen, and the expression "caterer" shall be construed accordingly.

"Container" means the jar, bottle or other receptacle in which any preserves are or were immediately contained, and "package" means any outer receptacle in which containers are or were packed.

"First-hand sale" means any sale to a wholesaler.

"Fruit curd" means—

(a) the articles commonly known as lemon cheese and lemon curd, and

(b) any substantially similar article made from or so as to produce the flavour of lemons or any other fruit.

"Extracted honey" means honey expressed or extracted from the honey-comb.

"Heather honey" means honey produced wholly or mainly from nectar gathered from heather.

"Home produced honey" means honey produced by bees kept in the United Kingdom or Eire.

"Imitation honey" means any manufactured product, whether or not containing honey, which is made up so as to resemble honey in appearance, consistency and flavour.

"Imported honey" means honey imported into the United Kingdom other than honey produced by bees kept in Eire.

"Jam" includes marmalade, vegetable jam and jam in the form of jelly.

"Loose" in relation to the sale of any preserves means the sale of such preserves otherwise than in a container in which they have been packed in advance ready for retail sale.

"Marmalade" means any jam or preserve manufactured from citrus fruit with or without the addition of the juice or pectin of fruit other than citrus fruit.

"Mince meat" means—

(a) the mixture of fresh or dried fruit with other ingredients commonly known as mince meat, and

(b) any substantially similar article.

"Multiple retailer" means a retailer carrying on business at not less than ten retail shops.

"No. $\frac{1}{2}$ size container" in relation to any mince meat or fruit curd means a container of a capacity of not less than $6\frac{1}{4}$ fluid ounces or more than $6\frac{3}{4}$ fluid ounces, containing not less than $7\frac{1}{4}$ ounces net weight.

"No. 1 size container" in relation to any mince meat or fruit curd means a container of a capacity of not less than $12\frac{1}{2}$ fluid ounces or more than $13\frac{1}{4}$ fluid ounces containing not less than $14\frac{1}{2}$ ounces net weight.

"No 2 size container" in relation to any mince meat or fruit curd means a container of a capacity of not less than 25 fluid ounces or more than $26\frac{1}{4}$ fluid ounces containing not less than 29 ounces net weight.

"Pack" means to pack preserves into any container and the expression "packer" shall be construed accordingly.

"Preserves" means jam, honey, mince meat and fruit curd.

"Sale by retail" means any sale to a person buying otherwise than for the purpose of resale, and includes any sale to a person for the purposes of his catering business or for use in the manufacture or preparation for sale of any other article.

"Sale by wholesale" means any sale other than a first-hand sale or a sale by retail, and the expression "wholesaler" shall be construed accordingly.

"Specified brand of honey" means imported honey in respect of which a certificate for the time being in force has been granted by or on behalf of the Minister, certifying that such honey is a specified brand of honey for the purposes of this Order.

(2) Reference in this Order to the purchase or sale of preserves by a wholesaler, manufacturer, retailer or other class of trader means the purchase or sale by him in the course of his business as such class of trader. [325]

PART II—MANUFACTURER, ETC.

2. Except under and in accordance with the terms of a licence granted for the purposes of this Article by or on behalf of the Minister no person shall engage in the manufacture of jam, mince meat or fruit curd :

Provided that the foregoing restriction shall not apply—

(a) to the manufacture by any person during the period of twelve months commencing at the date of the coming into force of this

Order or during any successive period of twelve months thereafter of a quantity of jam, mincemeat and fruit curd not exceeding in total 30 cwt. ;

- (b) to the manufacture of jam, mincemeat or fruit curd otherwise than for the purposes of sale (whether or not as part of any other article). [326]

3. Except under and in accordance with the terms of a licence granted for the purposes of this Article by or on behalf of the Minister, no person shall by way of trade or business engage in—

- (a) the blending of imported honey (including the blending thereof with home produced honey) ;
(b) the packing of imported honey or of any blend of honey containing imported honey ;
(c) the manufacture or packing of imitation honey. [327]

PART III—MAXIMUM PRICES

4.—(1) No person shall sell or buy any jam manufactured in the United Kingdom or any mincemeat or fruit curd at a price exceeding the maximum price applicable in accordance with the provisions of the First Schedule to this Order.

(2) No person shall sell any jam manufactured in the United Kingdom unless such jam is of a description and is packed in a container, in respect of which prices are prescribed in the tables of prices contained in the First Schedule to this Order or in a container containing a multiple of 7 lb. net, provided that this restriction shall not apply to the sale by retail of loose jam.

(3) No person shall sell any mincemeat or fruit curd packed in any container containing 2 lb. net weight or less except the container be a No. $\frac{1}{2}$ size container, a No. 1 size container or a No. 2 size container ; provided that this restriction shall not apply to the sale by retail of loose mincemeat or loose fruit curd.

(4) The foregoing provisions of this Article shall not apply to jam, mincemeat or fruit curd which is sold by retail by the manufacturer thereof where such jam, mincemeat or fruit curd has been manufactured by him without licence by virtue of proviso (a) to Article 2 hereof. [328]

5. No person shall sell or buy any imported jam of a description mentioned in the Second Schedule to this Order at a price exceeding the maximum price applicable for that description of jam in accordance with the provisions of that Schedule. [329]

6. No person shall sell or buy honey of any description specified in the Third Schedule to this Order at a price exceeding the maximum price applicable in accordance with the provisions of the said Schedule. [330]

PART IV—RECORDS AND RETURNS

7. Every person licensed to manufacture jam under Article 2 of this Order shall furnish to the Minister a return in respect of each week (ending at midnight on Saturday) showing the quantities and descriptions of fruit delivered to him during that week, such return to be so furnished not later than the end of the week following that to which it relates. [331]

8. Every person licensed to blend, pack or manufacture honey under Article 3 of this Order shall keep or cause to be kept an accurate record of—

- (a) all purchases by him of imported honey for the purpose of packing and all purchases by him of home produced honey for the purpose of blending with imported honey;

(b) all purchases by him of honey, invert sugar or other ingredient for the purpose of manufacturing imitation honey ;
 (c) all sales by him of imported honey (including imported honey blended with home produced honey) blended or packed by him ; and
 (d) all sales by him of imitation honey manufactured or packed by him ;
 such record to show in the case of each purchase or sale the date thereof, the name and address of the person from or to whom the honey or the invert sugar or other ingredient as aforesaid or the imitation honey, as the case may be, was purchased or sold, the quantity purchased or sold and the price paid or charged. [332]

9.—(1) Every person who sells any preserves otherwise than by retail shall keep or cause to be kept an accurate record of—

- (a) all purchases and sales by him of preserves otherwise than by retail, such record to include in respect of each purchase or sale the date thereof, the name and address of the person from whom the preserves were purchased or to whom they were sold, the net weight of each description of preserves purchased or sold, the price paid or charged, and particulars of each and every addition to the maximum price (including any charge by way of deposit in respect of a returnable container) made in accordance with the provisions of this Order ;
- (b) the stocks of preserves held by him from time to time.

(2) Every person who sells preserves by retail shall keep or cause to be kept an accurate record of all purchases by him of preserves, such record to include in respect of each purchase the date thereof, the name and address of the person from whom the preserves were purchased, the net weight of each description of preserves purchased, the price paid, and particulars of each and every addition to the maximum price (including any charge by way of deposit in respect of a returnable container) made in accordance with the provisions of this Order. [333]

10.—(1) The retention by any person of an invoice or of a copy of an invoice shall as respects the particulars mentioned in such document be a sufficient compliance by that person with the provisions of this Part of this Order.

(2) Every person who is required by this Part of this Order to keep any record shall retain the same for a period of one year from the date of the transaction to which it relates, or in the case of a record of stocks, from the date when he took delivery thereof. [334]

PART V—LABELLING OF CONTAINERS

11.—(1) No person shall sell any preserves to which this Article applies in a container unless there appears on a label affixed to the container a true statement as to the matters hereafter mentioned in this Article. The said statement shall be clearly legible and shall appear in a prominent position on the label, and where the container is sold in a wrapper a label complying with the provisions of this Article shall, except where the wrapper is transparent and bears no other label or printed matter, be affixed to the outside of the wrapper.

(2) This Article applies to—

- (a) jam manufactured in the United Kingdom ;
- (b) heather honey ;
- (c) any specified brand of honey ;
- (d) any preserves authorised by virtue of a licence granted under this Order to be sold at a price exceeding the maximum price prescribed by this Order, and

(e) any preserves permitted by virtue of paragraph (4) of Article 4 of this Order to be sold free of price control.

(3) The said statement shall—

- (i) in the case of jam (other than marmalade) manufactured in the United Kingdom, specify whether the same is fresh fruit standard or full fruit standard ;
- (ii) in the case of marmalade manufactured in the United Kingdom, specify whether the same is fresh fruit standard, full fruit standard or special standard ;
- (iii) in the case of heather honey, contain the words “ heather honey ” ;
- (iv) in the case of any specified brand of honey, contain the words—
 “ By virtue of a certificate issued by the Minister of Food to the packer named hereon, this honey may be sold at a price not exceeding (a) ”
 (such statement to be completed by inserting at (a) the maximum price applicable under this Order to the honey together with the name and address of the packer to whom the certificate in respect of such honey has been issued) ;
- v) in the case of any preserves authorised by virtue of a licence granted under this Order to be sold at a price exceeding the maximum price prescribed by this Order, contain the words “ maximum retail price ” followed by such price in figures not less than one quarter of an inch in height, after which shall be added the words “ prescribed by Licence No.” followed by the number of the relevant licence ; and
- (vi) in the case of any jam, mincemeat or fruit curd to which paragraph (4) of Article 4 of this Order applies, contain a statement to the effect that it is permitted to be sold by retail by the manufacturer free of price control.

(4) A label required by this Article to be affixed to any container shall not be so affixed except by the manufacturer or packer of the preserves.

(5) No person shall remove, alter, deface or render illegible any label affixed to any container pursuant to the provisions of this Article :

Provided that it shall be a defence in any proceedings under this paragraph of this Article for the defendant to prove either—

- (a) that the container was in his possession at the time of the infringement otherwise than for sale ; or
- (b) that he acted without intent to deceive.

(6) Any honey not labelled in accordance with the provisions of paragraphs (3) (iii) or (3) (iv) of this Article shall for the purposes of this Order be deemed not to be heather honey or, as the case may be, a specified brand of honey. [335]

PART VI—TRANSPORT

12.—(1) No person shall in connection with any trade or business consign for transport by rail, or transport or consign for transport otherwise than by rail, jam manufactured in the United Kingdom from a place in any of the zones specified in Column 1 of the Fifth Schedule to this Order to a place outside that zone except to a place specified in relation to that zone in Column 2 of the said Schedule :

Provided that—

- (i) where jam has been transported from any zone (hereinafter referred to as “the zone of origin”) to a place in any zone specified in the said Column 2 in relation to the zone of origin, it shall be lawful pursuant to a sale by wholesale to transport or consign for transport such jam back to a place in the zone of origin or in any other zone specified in relation to the zone of origin in the said Column 2 if the following conditions are complied with :—
 - (a) the distance between the terminal points of the journey does not exceed 40 miles as the crow flies ; and
 - (b) on such journey the jam is either transported or consigned for transport by the person to whom it was consigned from the zone of origin ; and
- (ii) jam may be transported or consigned for transport pursuant to a sale by wholesale as follows :—
 - (a) from a place in Zone L to a place in Zones M, O or P (except that jam which has been manufactured in Zone L may not be transported to a place in Zone M) ;
 - (b) from a place in Zone O to a place in Zone P.
- (2) Paragraph (1) of this Article shall not apply to jam which is—
 - (a) packed in containers of a capacity of more than 28 pounds ; or
 - (b) transported or consigned for transport pursuant to a sale by retail other than a sale to a manufacturer for the purposes of his manufacturing business ; or
 - (c) consigned by or on behalf of the Minister ; or
 - (d) consigned to any of the following :—
 - (i) a department of His Majesty’s Government in the United Kingdom ;
 - (ii) the Navy, Army and Air Force Institutes ;
 - (iii) the War Organisation of the British Red Cross Society and the Order of St. John of Jerusalem.

(3) It shall be a defence for any person charged with an infringement of paragraph (1) of this Article to prove that jam transported by him contrary to the provisions of this Order was transported by him in the course of his business as a carrier, and that he had no reason to believe that the provisions of this Order were being infringed. [336]

PART VII—GENERAL

13.—(1) Where in any prosecution a person is charged with an infringement of this Order, by reason of—

- (a) the inaccuracy or omission of any particular required to be shown on a label affixed to a container pursuant to Article 11 hereof, or
- (b) the preserves sold by him being of a description other than the description under which he sold them, or
- (c) the weight of preserves sold by him being less than the weight they were represented by him to be on being sold,

it shall be a defence for him to prove—

- (i) in the case of a charge relating to the inaccuracy or omission of any particular as aforesaid, that such particular was shown on or, as the case may be, omitted from, the label when the container was purchased by him ; or

- (ii) in the case of a charge relating to weight or description as aforesaid, that he purchased the preserves in the container in which he sold them and with a written warranty that they were of the description under which he sold them, or, as the case may be, that the weight of the preserves was the weight which he represented them to be,

and in either case that at the time of the alleged infringement he had no reason to believe that this Order was being infringed.

(2) A person shall not be entitled to avail himself of the defence provided by this Article unless he has within fourteen days of the service of the summons sent to the prosecutor a copy of the label or warranty upon which he intended to rely with a notice stating that he intends to rely on it, and specifying the name and address of the person from whom he received it, and has also sent a like notice of his intention to that person.

(3) Where the defendant is a servant of the person who purchased the preserves with such a label or (as the case may be) under such a warranty he shall be entitled to rely upon the provisions of this Article in the same way as his employer would have been entitled to do if he had been the defendant.

(4) The person by whom any such label or warranty is alleged to have been given shall be entitled to appear at the hearing and to give evidence.

(5) For the purposes of this Article any statement relating to description or weight on any label affixed to the wrapper or container of any preserves or in an invoice or similar document relating to any preserves mentioned in that invoice or document shall be deemed to be a written warranty by the seller that the preserves in such container or to which the statement relates are of the description or weight indicated in the statement. [337]

14.—(1) Every person who sells heather honey or any specified brand of honey otherwise than by retail, shall furnish to the buyer on or before the delivery of the honey a statement in writing clearly stating that such honey is heather honey or, as the case may be, a specified brand of honey.

(2) Every person who sells mincemeat or fruit curd in a container otherwise than by retail shall clearly indicate to the buyer either by means of a label upon the container thereof or on an invoice or similar document delivered to the buyer on or before the delivery of the mincemeat or fruit curd whether such container is a No. $\frac{1}{2}$ size container or a No. 1 size container or a No. 2 size container or in the case of any other container the net weight contained therein. [338]

15. In any proceedings under this Order in respect of an alleged deficiency of weight of any preserves (otherwise than on a sale by retail of loose preserves) the Court shall disregard any deficiency in the weight of the preserves contained in a single container where such deficiency does not exceed $\frac{1}{2}$ oz. for each purported 1 lb. of preserves, provided that in all the circumstances of the case the Court is satisfied that the deficiency is due to some cause which could not reasonably be avoided, including in particular, variation in the weight arising in the process of packing, or evaporation after packing, and for this purpose the Court may have regard to the average weight of preserves contained in a reasonable number of any containers of the same kind and containing the same description of preserves sold or delivered by the defendant or in his possession for the purpose of sale or delivery on the same occasion. [339]

16.—(1) In any proceedings in respect of an infringement of this Order, the production by one of the parties of (i) a document purporting to be a certificate of a public analyst or the Government Chemist or (ii) a document

supplied to him by the other party as being a copy of such a certificate shall be sufficient evidence of the facts stated therein, unless in the case mentioned under head (i) above the other party requires that the person making the analysis shall be called as a witness.

(2) In any such proceedings—

- (a) if the prosecution intends to produce a certificate of a public analyst or the Government Chemist, a copy of such certificate shall be served with the summons ; and
- (b) if a defendant intends to produce a certificate of a public analyst or the Government Chemist, or to require that the person making the analysis shall be called as a witness, he shall give to the other party at least three clear days' notice of his intention,

and if any of these requirements is not complied with, the Court may, if it thinks fit, adjourn the hearing on such terms as it deems proper.

(3) In this Article "public analyst" has in relation to England and Wales the meaning assigned to it by the Food and Drugs Act, 1938, in relation to Scotland the meaning assigned to it by the Food and Drugs (Adulteration) Act, 1928, and in relation to Northern Ireland the meaning assigned to it by the Sale of Food and Drugs Acts (Northern Ireland), 1875 to 1939. [340]

17. The provisions of this Order shall not apply to the sale of any preserves served as part of a meal by a caterer in the course of his catering business. [341]

18.—(1) The provisions of this Order are subject to any directions which may at any time be given by or on behalf of the Minister, and to any licence or authorisation which may be granted by or on behalf of the Minister under this Order.

(2) Every person holding a licence or authorisation granted under this Order shall comply with every condition imposed by such licence or authorisation.

(3) Every licence or authorisation granted under this Order is and shall remain the property of the Minister. [342]

19. Infringements of this Order are offences against the Defence (General) Regulations, 1939. [343]

20. No person shall in connection with the sale or disposition or proposed sale or disposition of any preserves enter or offer to enter into any artificial transaction or make or demand any unreasonable charge. [344]

21.—(1) The Jam, Marmalade and Preserved Fruit (Licensing and Control) Order, 1941, as amended, is hereby revoked but without prejudice to any proceedings in respect of any contravention thereof :

Provided that any licence or authorisation granted under the said Order and subsisting at the date of the coming into force of this Order shall continue to have effect as if granted—

- (a) under this Order, in the case of a licence authorising any person to engage in the manufacture of jam or marmalade ;
- (b) under the Soft Drinks Order, 1943, as amended, in the case of a licence authorising any person to engage in the manufacture of fruit juice ;
- (c) under the Canned Fruit and Vegetables Order, 1944, in the case of a licence authorising any person to engage in the preservation of any fruit.

(2) The Mincemeat and Fruit Curd (Control and Maximum Prices) Order, 1941, as amended, the Honey (Maximum Prices) Order, 1942, the Honey (Control) Order, 1942, and the Jam and Marmalade (Control and Maximum Prices) Order, 1942, as amended, are hereby revoked but without prejudice to any proceedings in respect of any contravention thereof :

Provided that any licence or authorisation granted under the said Orders and subsisting at the date of the coming into force of this Order shall continue to have effect as if granted under this Order.

(3) Every person shall notwithstanding the revocation of the said Orders retain any record required to be kept by him thereunder until the expiration of one year from the date of the transaction to which it relates. [345]

22. This Order shall come into force on the 23rd day of July, 1944, and may be cited as the Preserves Order, 1944. [346]

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V	Plum and Raspberry ..	5	4	9	9	18	6	58	3	77	8	5	10	10	7	20	2	64	1	85	6	6½	1	0½	2	0	6	5½
	Peach
	Peach and Citrus Fruit
	Apple and Strawberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Gooseberry and Raspberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Gooseberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Raspberry and Redcurrant ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Plum Jelly ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Loganberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Rhubarb and Raspberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
VI	Apple and Raspberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Apple and Loganberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Apple and Damson ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Apple Jelly and Quince Jelly ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Rhubarb and Blackberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Plum ..	5	1	9	1	17	3	54	0	72	0	5	6	10	0	18	11	60	0	80	0	6½	1	0	1	10½	6	0½
	Marmalade ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Apple and Blackberry ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Apple and Plum ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Rhubarb ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	Any other variety ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
	*B. Special standard marmalade..	5	4	9	9	18	6	58	3	77	8	5	10	10	7	20	2	64	1	85	6	6½	1	0½	2	0	6	5½

1. Loose Jam The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for such jam shall be—

(a) when sold in quantities of 8 ounces or less a price at the rate of one penny per ounce ; and

(b) when sold in quantities of over 8 ounces a price at the rate per lb. calculated by reference to the retail price specified above for jam in a container containing 7 lb.

2 Jam Packed in Multiples of 7 lb. The maximum price on the sale of jam in a container containing any multiple of 7 lb. shall be a price at a rate per lb. calculated by reference to the price applicable on such sale to jam in a container containing 7 lb.

*3. " Full fruit standard ", " fresh fruit standard " and " special standard " have the same meanings respectively as in the Food Standards (Preserves) Order, 1944.

PART II
MAXIMUM PRICES OF FRUIT CURD AND MINCEMEAT

Maximum First-Hand Price				Maximum Wholesale Price				Maximum Retail Price			
Per dozen containers of—				Per dozen containers of—				Per container of—			
When sold loose or in containers containing 2 lb. net or more : Rate per cwt.				When sold loose or in containers containing 2 lb. or more : Rate per cwt. net				When sold loose or in containers containing 2 lb. or more : Rate per cwt. net			
No. 1 size		No. 2 size		No. 1 size		No. 2 size		No. 1 size		No. 2 size	
s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.	s. d.
5 6	10 0	19 0	80 0	6 0	10 10	20 9	87 0	1 1	1 1	2 1	103 0
5 2½	9 5	17 6	72 0	5 8½	10 3	19 0	79 0	1 0½	1 11	1 11	95 0
Mince meat ..	..	..	..	..	..	..	..	..	..	..	..
Fruit Curd ..	..	..	..	..	..	..	..	..	..	..	..

PART III

PROVISIONS RELATING TO MAXIMUM PRICES OF JAM MANUFACTURED IN THE UNITED KINGDOM AND OF MINCEMEAT AND FRUIT CURD

Packing and Containers

1. Subject as hereinafter provided, the maximum prices include all costs in respect of packing and of the provision of packages or containers and no additional charge may be made by the seller in respect thereof, provided that—

- (a) in the case of the sale of jam in a container (other than a can) containing 7 lb. or any multiple of 7 lb., the seller may charge a sum by way of deposit as security for the return thereof not exceeding 9d. in the case of a container containing 7 lb. and not exceeding 1s. 6d. in the case of a container containing 14 lb. or more ;
- (b) in the case of the sale of mincemeat or fruit curd in a container containing 6 lb. or more the seller may charge a sum by way of deposit as security for the return thereof not exceeding 9d. in the case of a container containing 6 lb. or more but less than 12 lb. and not exceeding 1s. 6d. in the case of a container containing 12 lb. or more ; and
- (c) on a sale by retail of loose jam, mincemeat or fruit curd, where the seller provides a container a reasonable additional charge may be made in respect thereof.

Transport and Delivery

2. The maximum prices on a first hand sale or on a sale by wholesale include all costs and charges of and incidental to delivery by the seller at the buyer's premises and no additional charge shall be made by the seller in respect of transport or delivery :

Provided that—

- (a) where the buyer's premises at which delivery is so given are situate on the mainland of Scotland north of the Caledonian Canal, or on any of the Islands of the West of Scotland, other than those of the Firth of Clyde, or in the counties of Orkney or Zetland, an additional charge may be made by the seller not exceeding a sum calculated at the appropriate rate specified in paragraph 5 of this Part of this Schedule ;
- (b) where delivery is given to the buyer at a point nearer to the seller's premises (including any place where the goods are stored or kept on the seller's behalf) than the buyer's premises, the maximum price shall be reduced by an amount which fairly represents the difference between the cost of delivery to the buyer's premises, and the cost of delivery to the place at which delivery is actually given.

3. On a sale of jam by a retailer in any of the areas of Scotland referred to in paragraph 2 hereof there may be added to the maximum retail prices specified in Part I of this Schedule an amount not exceeding a sum calculated at the appropriate rate specified in paragraph 5 of this Part of this Schedule.

Fractions of a Farthing

4. Where the maximum price on a sale by retail includes any fraction of a farthing such fraction shall be regarded as one farthing.

Rates

5. The rates referred to in paragraphs 2 (a) and 3 above—

Jam	..	..	..	$\frac{1}{2}$ d. per lb. net.
Mincemeat	}	..	..	$\frac{1}{2}$ d. per No. $\frac{1}{2}$ or No. 1 size container.
or				1d. per No. 2 size container.
Fruit Curd				$\frac{1}{2}$ d. per lb. net in any other case. [347]

THE SECOND SCHEDULE

PART I

MAXIMUM PRICES OF IMPORTED JAM

Section A—Maximum Prices on a First Hand Sale

Description of Jam				Rate per dozen cans each containing—			
				12 oz.	1 lb.	1½ lb.	2 lb.
				s. d.	s. d.	s. d.	s. d.
1. Cape Gooseberry	}			9 8½	11 1	17 0	21 6½
Apricot							
2. Green Fig				8 10½	10 3½	15 3½	19 10
3. Strawberry				10 6½	12 0	17 10½	22 4½
4. Raspberry	}						
Loganberry							
Pineapple				8 10½	10 3	14 5	19 0
Peach							
Peach and Pineapple							
5. Blackcurrant				8 10	11 2	16 1½	20 8½
6. Marmalade	}			8 0	9 5½	13 7	17 3½
All other jams							

Section B—Maximum Prices on a Sale by Wholesale

Description of Jam				Rate per dozen cans each containing—			
				12 oz.	1 lb.	1½ lb.	2 lb.
				s. d.	s. d.	s. d.	s. d.
1. Cape Gooseberry	}			10 2½	11 10	17 10½	22 11½
Apricot							
2. Green Fig				9 4½	11 0½	16 2	21 3
3. Strawberry				11 0½	12 9	18 9	23 9½
4. Raspberry	}						
Loganberry							
Pineapple				9 4½	11 0	15 3½	20 5
Peach							
Peach and Pineapple							
5. Blackcurrant				9 4	11 11	17 0	22 1½
6. Marmalade	}			8 6	10 2½	15 4½	18 8½
All other jams							

Section C—Maximum Prices on a Sale by Retail

Description of Jam	Rate per can containing—			
	12 oz.	1 lb.	1½ lb.	2 lb.
	s. d.	s. d.	s. d.	s. d.
1. Cape Gooseberry	1 0	1 2	1 9	2 3
Apricot				
2. Green Fig	11	1 1	1 7	2 1
3. Strawberry	1 1	1 3	1 10	2 4
4. Raspberry	11	1 1	1 6	2 0
Loganberry				
Pineapple				
Peach				
Peach and Pineapple				
5. Blackcurrant	11	1 2	1 8	2 2
6. Marmalade	10	1 0	1 5	1 10
All other jams				

Loose Jam.—The retail prices specified above shall not apply to the sale by retail of loose jam. The maximum price for loose jam shall be—

- (a) when sold in quantities of 8 ounces or less a price at the rate of one penny per ounce ; and
- (b) when sold in quantities of over 8 ounces a price at the rate per lb. calculated by reference to the retail price specified above for jam in a can containing 2 lb.

PART II

PROVISIONS RELATING TO THE MAXIMUM PRICES OF IMPORTED JAM

Packing and Containers

1. The maximum prices include all costs in respect of packing and of the provision of packages or containers and no additional charge may be made by the seller in respect thereof.

Transport and Delivery

2. The maximum prices on a first hand sale or on a sale by wholesale include all costs and charges of and incidental to delivery at the buyer's premises and no additional charge shall be made in respect of transport or delivery :

Provided that—

- (a) where the buyer's premises at which delivery is so given are situate on the mainland of Scotland north of the Caledonian Canal, or on any of the Islands of the West of Scotland, other than those of the Firth of Clyde, or in the counties of Orkney or Zetland, an additional charge may be made by the seller at a rate not exceeding $\frac{1}{4}$ d. per lb. net ;
- (b) where delivery is given to the buyer at a point nearer to the seller's premises (including any place where the goods are stored or kept on the seller's behalf) than the buyer's premises, the maximum price shall be reduced by an amount which fairly represents the difference between the cost of delivery to the buyer's premises, and the cost of delivery to the place at which delivery is actually given ; and
- (c) where on a sale to a multiple retailer delivery is given at a central depot or warehouse from which distribution is ordinarily made by the buyer to not less than ten of his retail shops, the maximum price shall be reduced by a sum at the rate of 1s. per case.

3. On a sale by a retailer in any of the areas of Scotland referred to in subparagraph (a) of paragraph 2 hereof, there may be added to the prices specified in Section C of Part I of this Schedule a sum at a rate not exceeding $\frac{1}{4}$ d. per lb. net.

Breaking Bulk

4. Where on a sale by wholesale part only of a case is sold or is at the buyer's request delivered to him, the maximum price in respect thereof may be increased by a sum at a rate not exceeding 1½d. per dozen cans.

Maximum Price of Imported Jam Packed in Unspecified Containers

5. The maximum price on any sale of imported jam packed in containers of sizes other than those specified in the Tables set out in Part I of this Schedule shall be a price at the rate per lb. calculated by reference to the price specified in relation to the sale of such jam packed in cans each containing 2 lb.

Fractions of a Halfpenny

6. Where the maximum price includes any fraction of a halfpenny such fraction shall be regarded as one halfpenny. [348]

THE THIRD SCHEDULE

PART I

TABLE OF MAXIMUM PRICES

Extracted Honey

Description	On a first-hand sale		On a sale by wholesale		On a sale by retail			
	Rate per dozen containers each containing—		Rate per dozen containers each containing—		Per container containing—		Per container containing more than 1 lb. at the rate per lb. net weight	
	½ lb.	1 lb.	½ lb.	1 lb.	½ lb.	1 lb.		
Imported (other than specified brands of honey) ..	s. d. 9 3	s. d. 15 6	s. d. 10 2	s. d. 17 0	s. d. 1 0½	s. d. 1 9	s. d. 1 9	
Imported (specified brands of honey) ..	9 8	16 3	10 7	17 10	1 1	1 10	1 10	
Home produced (other than heather honey) ..	—	—	—	—	1 6	2 9	2 3	
Home produced (heather honey)	—	—	—	—	1 10	3 6	3 0	

Honey in the Honey-Comb

Description	On a sale by retail	
	Rate per ounce net weight	
	d.	
Home produced honey in the honey-comb other than heather honey	2	
Home produced heather honey in the honey-comb ..	2½	

PART II

PROVISIONS RELATING TO MAXIMUM PRICES

Honey in the Honey-Comb

1. In calculating the weight of honey in the honey-comb for the purposes of the table set out in Part I of this Schedule, the weight of the frame in which the section of honey-comb is contained may be included, provided that such frame is in all the circumstances of a reasonable weight.

Transport and Delivery

2. The maximum prices on a first-hand sale or on a sale by wholesale of imported honey include all costs and charges of and incidental to delivery by the seller at the buyer's premises, and no additional charge shall be made by the seller on any such sale in respect of transport or delivery :

Provided that where delivery is given to the buyer at a point nearer to the seller's premises (including any place where the honey is stored or kept on the seller's behalf) than the buyer's premises, the maximum price shall be reduced by an amount which fairly represents the difference between the cost of delivery to the buyer's premises and the cost of delivery to the place at which delivery is actually given.

Packages and Containers

3.—(1) On a first-hand sale or a sale by wholesale of imported honey the seller may charge a reasonable sum by way of deposit in respect of any returnable package, as security for the return thereof, provided that the sum so charged shall be repaid by the seller to the buyer on the re-delivery of the package to the seller, carriage paid, in such condition as is reasonable having regard to its condition when supplied and to ordinary wear and tear.

(2) Save as provided in this paragraph, no additional charge shall be made on the sale of any honey in respect of packing or of packages or containers.

Honey Sold Loose or in Unspecified Containers

4. Where honey of a description mentioned in Part I of this Schedule is sold otherwise than in a container specified therein, the maximum price on any sale thereof shall be calculated at the lowest rate per lb. chargeable on that sale for that description of honey when sold in any container specified in Part I of this Schedule. [349]

THE FOURTH SCHEDULE

Column 1	Column 2
Zones	Places outside the zone to which transport is permitted.
<p>ZONE A</p> <p>The counties of Middlesex, Kent, Sussex and Surrey, the administrative county of London ; the following districts in the county of Essex :—the county boroughs of East Ham and West Ham, the boroughs of Barking, Chingford, Dagenham, Ilford, Leyton, Walthamstow and Wanstead and Woodford, and the urban districts of Chigwell and Waltham Holy Cross ; the following districts of the county of Hertfordshire :—the urban districts of Barnet, Bushey, Cheshunt and East Barnet and the rural district of Elstree.</p>	Any place in Zones B, D, E or F

Column 1	Column 2
Zones	Places outside the zones to which transport is permitted
<p style="text-align: center;">ZONE B</p> <p>The counties of Berkshire, Buckinghamshire, Dorsetshire, Hampshire (including the Isle of Wight) and Oxfordshire and those districts of Essex and Hertfordshire not included in Zone A.</p>	Any place in Zones D, E or F
<p style="text-align: center;">ZONE C</p> <p>The counties of Bedfordshire, Cambridgeshire (including Isle of Ely, but excluding the rural district of Thorney), Huntingdonshire (excluding the urban district of Old Fletton and the rural district of Norman Cross), Norfolk and Suffolk.</p>	Any place in Zones F or G
<p style="text-align: center;">ZONE D</p> <p>The counties of Cornwall, Devonshire, Gloucestershire, Somersetshire and Wiltshire.</p>	Any place in Zones E or F
<p style="text-align: center;">ZONE E</p> <p>The counties of Brecknockshire, Cardiganshire, Carmarthenshire, Glamorganshire, Monmouthshire, Pembrokeshire and Radnorshire.</p>	—
<p style="text-align: center;">ZONE F</p> <p>The counties of Herefordshire, Shropshire, Staffordshire, Warwickshire and Worcestershire.</p>	Any place in Zones E or G
<p style="text-align: center;">ZONE G</p> <p>The counties of Derbyshire, Leicestershire, Lincolnshire, Northamptonshire (including Soke of Peterborough), Nottinghamshire and Rutland, the urban district of Old Fletton (Hunts) and the rural districts of Norman Cross (Hunts) and Thorney (Isle of Ely).</p>	—
<p style="text-align: center;">ZONE H</p> <p>The counties of Anglesey, Caernarvonshire, Cheshire, Cumberland, Denbighshire, Flintshire, Lancashire, Merionethshire, Montgomeryshire and Westmorland.</p>	Any place in Zones J or K
<p style="text-align: center;">ZONE J</p> <p>The county of Yorkshire (East Riding and West Riding), the urban district of Malton (Yorkshire, North Riding) and the rural districts of Flaxton and Malton (Yorkshire, North Riding).</p>	—
<p style="text-align: center;">ZONE K</p> <p>The counties of Durham, Northumberland and Yorkshire (North Riding, excluding the urban district of Malton and the rural districts of Flaxton and Malton).</p>	—
<p style="text-align: center;">ZONE L</p> <p>The counties of Berwickshire, East Lothian, Peeblesshire, Roxburghshire, Selkirkshire, West Lothian and Midlothian.</p>	—

Column 1	Column 2
Zones	Places outside the zones to which transport is permitted.
ZONE M The counties of Argyllshire, Ayrshire, Buteshire, Clackmannanshire, Dumbartonshire, Dumfriesshire, Kirkcudbrightshire, Lanarkshire, Renfrewshire, Stirlingshire and Wigtonshire.	Any place in Zones L, O or P
ZONE N The counties of Angus, Fifeshire, Kincross-shire and Perthshire.	Any place in Zones L, O or P
ZONE O The counties of Aberdeenshire, Banffshire, Kincardineshire, Morayshire, Orkney and Zetland.	—
ZONE P The counties of Caithness-shire, Inverness-shire, Nairnshire, Ross and Cromarty and Sutherland.	—
ZONE Q Northern Ireland	—

[350]

Note as to S. R. & O., 1944, No. 841.—*This is a consolidating Order, revoking and in substance repeating the provisions of the Mincemeat and Fruit Curd (Control and Maximum Prices) Order, 1941, as amended, the Honey (Maximum Prices) Order, 1942, the Honey (Control) Order, 1942, and the Jam and Marmalade (Control and Maximum Prices) Order, 1943, as amended.*

The Order also revokes the Jam, Marmalade and Preserved Fruit (Licensing and Control) Order, 1941, as amended, and repeats its provisions as regards jam and marmalade. Licences granted under that Order will continue in force as though granted (a) under this Order in respect of the manufacture of jam and marmalade, (b) under the Soft Drinks Order, 1943, as amended, in respect of the manufacture of fruit juice, and (c) under the Canned Fruit and Vegetables Order, 1944, in respect of the preservation of fruit. Similar licences in respect of the manufacture of fruit pulp and fruit puree have already been transferred to the Fruit Pulp Order, 1944.

New prices are prescribed for home produced jam (including marmalade), mincemeat and fruit curd. There is no change in the prices for honey or imported jam.

Certain drafting alterations have been introduced, and the labelling provisions have been altered to bring them into conformity with the Labelling of Food Order, 1944. The standards for jam, etc., are not repeated in this Order but are prescribed under a separate Food Standards (Preserves) Order, 1944, which came into force at the same time as this Order.

THE FOOD STANDARDS (PRESERVES) ORDER, 1944

S. R. & O., 1944, No. 842

July 17, 1944

In exercise of the powers conferred upon him by Regulation 2 of the Defence (Sale of Food) Regulations, 1943, and of all other powers him enabling, the Minister of Food hereby makes the following Order:—

1.—(1) Pursuant to Regulation 2 of the Defence (Sale of Food) Regulations, 1943, the Minister of Food hereby prescribes that—

(a) the standards for jam and marmalade shall be as specified in the Schedule to this Order;

(b) the standard for fruit curd (including fruit flavour curd) and mince-meat shall, as respects soluble solids, be as specified in the said Schedule.

(2) The standards for jam and marmalade prescribed by this Article shall only apply to jam and marmalade manufactured in the United Kingdom. [351]

2. Proceedings in England and Northern Ireland for an infringement of Article 2 of the Food Standards (General Provisions) Order, 1944, in respect of any Article for which a standard is prescribed by this Order may be brought by a Food and Drugs Authority without the consent of the Minister of Food. [352]

3. The standards prescribed by this Order shall come into force as respects jam, marmalade and fruit curd on the 23rd day of July, 1944, and as respects mincemeat on the 3rd day of September, 1944. [353]

4. This Order may be cited as the Food Standards (Preserves) Order, 1944, and shall be included in the Orders which may together be cited as the Food Standards Orders, 1944. [354]

* * * * *

THE SCHEDULE

STANDARDS FOR JAM, MARMALADE, FRUIT CURD AND MINCEMEAT

PART I

1. The standards for jam and marmalade shall be as follows :—

- (i) All jam shall be either fresh fruit standard jam or full fruit jam.
- (ii) All marmalade shall be either fresh fruit standard marmalade, full fruit standard marmalade, or special standard marmalade.

2. The standard for fruit curd (including fruit flavour curd) and mincemeat shall, as respects soluble solids, be as follows, that is to say :—

The percentage of soluble solids contained therein shall be not less than 65 per cent.

3. “ Fresh fruit standard jam ” and “ fresh fruit standard marmalade ” shall be respectively jam and marmalade—

- (i) of which the percentage of soluble solids is not less than $68\frac{1}{2}$ per cent. ;
- (ii) of which the fruit or vegetable content—
 - (a) is in accordance with the scale set out in Part II of this Schedule ;
 - (b) consists of fresh fruit or vegetables only ; and
- (iii) which does not contain any added colouring matter or any added preservative other than sugar.

4. “ Full fruit standard jam ” and “ full fruit standard marmalade ” shall be respectively jam and marmalade—

- (i) of which the percentage of soluble solids is not less than $68\frac{1}{2}$ per cent. ; and
- (ii) of which the fruit or vegetable content is in accordance with the scale set out in Part II of this Schedule.

5. “ Special standard marmalade ” shall be marmalade—

- (i) of which the percentage of soluble solids is not less than $68\frac{1}{2}$ per cent. ;
- (ii) which is jelly marmalade, or which is coarse cut marmalade ; and
- (iii) of which the fruit content is not less than 30 per cent. in the case of coarse cut marmalade and not less than 20 per cent. in the case of jelly marmalade.

6.—(a) “ Fruit or vegetable content ” means with respect to any jam or marmalade the total quantity of fruit or vegetables of the variety or varieties used in the manufacture of the jam or marmalade, being where such variety or varieties are specified in the description thereof in the first column of Part II of this Schedule the total quantity of fruit or vegetables so specified. The said quantity is the total

quantity of fresh fruit or vegetables used in the manufacture of the jam or marmalade or in the case where fruit or vegetable pulp is used the quantity of fruit or vegetables used in the manufacture of the pulp (no account being taken of fruit juice or fruit or vegetable pectin), expressed as a percentage based on the number of pounds of fresh fruit or vegetables required to be used in making 100 lb. of finished jam or marmalade; and the expression "fruit content" shall be construed accordingly;

(b) "Percentage of soluble solids" means with respect to any produce the percentage by weight of soluble solids ascertained by means of a refractometer when the product is cold, no correction being made for insoluble solids.

PART II

MINIMUM FRUIT CONTENT

First Column	Second Column
Description of Jam or Marmalade (Fresh Fruit Standard or Full Fruit Standard)	Percentage of Fruit or Vegetables
A.—JAM	
Apple and Blackberry	40 (30/10)
Apple and Blackcurrant	
Apple and Damson	
Apple and Plum	
Apple and Raspberry and/or Loganberry	
Apple and Strawberry	40 (20/20)
Apple Jelly	
Apricot	
Apricot and Peach	
Bilberry	
Blackberry (or Bramble) and Blackberry (or Bramble) Seedless or Jelly	38
Blackcurrant and Blackcurrant Jelly	20
Cherry	40
Damson and Damson Jelly	38
Elderberry Jelly and Elderberry Seedless	40
Gooseberry	30
Greengage	38
Loganberry	20
Peach and Mixtures of Peach with Citrus Fruit	40
Pineapple	40
Plum and Plum Jelly	40
Plum and Blackcurrant	40 (30/10)
Plum and Raspberry	40 (30/10)
Plum and Strawberry	40 (30/10)
Quince Jelly	40
Raspberry and Raspberry Seedless or Jelly	20
Raspberry and Gooseberry	25 (10/15)
Raspberry and Redcurrant	20 (10/10)
Redcurrant Jelly	20
Rhubarb	40
Rhubarb and Blackberry	40 (30/10)
Rhubarb and Raspberry	40 (30/10)
Strawberry	30
Strawberry and Gooseberry	30 (15/15)
All other jams	40
B. MARMALADE*	20

NOTE.—Where figures in brackets are specified in the second column above in respect of a description of jam containing more than one variety of fruit or vegetables the first figure denotes the content of the variety of fruit or vegetables first mentioned in such description, and the second figure denotes the total content of the other varieties of fruit or vegetables mentioned in such description.

* For special standard marmalade, see paragraph 5 of Part I of this Schedule. [355]

Note as to S. R. & O., 1944, No. 842.—*This Order, which should be read with the Food Standards (General Provisions) Order, 1944, prescribes standards for jam, marmalade, fruit curd and mincemeat. The standards for jam, marmalade and fruit curd correspond to the provisions which were previously contained in the Jam and Marmalade (Control and Maximum Prices) Order, 1942, and the Mincemeat and Fruit Curd (Control and Maximum Prices) Order, 1941, except that an increased fruit content is prescribed for jams containing strawberries or goosberries. A standard is now prescribed for mincemeat.*

CASES

Food and Drugs—Food not of nature, substance or quality demanded—“Cordial”—Character of article—No statutory or recognised standard—Certificate of public analyst—Evidence not contradicted—Article sold to the prejudice of purchaser—Food and Drugs Act, 1938 (c. 56), s. 3 (1).

The respondent was charged with selling a sweetened lemon flavouring cordial which was not of the nature, substance or quality of the food demanded by the purchaser. The only evidence before the magistrates was that of the public analyst who had been called by the appellants. He stated that the article could not be termed a cordial, as it contained neither alcohol nor sugar, and he also relied on the fact that it was not concentrated nor capable of being diluted. There was no recognised standard of quality for the article. The magistrates expressed the opinion that the evidence of the analyst though not contradicted was not proof that when an ordinary person purchases a beverage marked “cordial” he means to purchase a beverage which contains alcohol or sugar. Thereupon they dismissed the information against the respondent. It was contended that the magistrates on the evidence before them should have found the offence proved:—

Held: since there was no fixed standard of quality for the beverage sold, the magistrates must form their own standard of quality based on the evidence of the analyst. In the absence of any evidence qualifying or contradicting that statement of fact, it was the duty of the magistrates to find that the beverage had been sold to the prejudice of the purchaser.

Bowker v. Woodroffe, Bowker v. Premier Drug Co., [1928] 1 K. B. 217 followed.

Collins Arden Products, Ltd. v. Barking Corpn., [1943] 1 K. B. 419 distinguished.—BROUGHTON v. WHITTAKER, [1944] 1 K. B. 269; [1944] 2 All E. R. 544; 113 L. J. (K. B.) 248; 170 L. T. 298; 108 J. P. 75; 60 T. L. R. 247; 42 L. G. R. 88, D. C. [356]

Food and Drugs—Label calculated to mislead—Prosecution of manufacturer—Limitation of time—Subsequent offence—Material date of offence—Label submitted to public analyst—“Reasonable diligence”—Food and Drugs Act, 1938 (c. 56), ss. 6 (1), 79, 80, 83 (3).

The appellants, the manufacturers and suppliers of an article of food described as “orangette,” were charged under the Food and Drugs Act, 1938, with selling this orangette with a label calculated to mislead as to its nature, substance or quality. The act upon which the prosecution was based was a retail sale by a grocer on September 4, 1942. The bottle then sold had been supplied by the appellants on May 27, 1941. The prosecution was brought against the appellants as wholesalers under the provisions of sect. 83 (3) of the Act of 1938. The appellants had taken the opinion of a public analyst before using the label, but at the hearing before the magistrates another public analyst gave it as his opinion that the label was objectionable. The appellants had already been convicted of a number of similar offences, all of which had taken place after the date on which the orangette was supplied to the retailer in the present case. On convicting the appellants in the present

case, the magistrates had imposed a fine greater than that for a first offence. It was contended on behalf of the appellants (i) that, since they had taken the opinion of a public analyst before using the label, they had discharged the onus on them, under the Food and Drugs Act, 1938, s. 6 (1), of proving that they could not with reasonable diligence have ascertained that the label was calculated to mislead; (ii) that the prosecution was out of time under sect. 80; (iii) that it was illegal for the magistrates to impose a fine as for a second or subsequent offence:—

Held: (i) there was ample evidence for the magistrates to find that the appellants had not discharged the onus resting on them under sect. 6 (1).

(ii) since the prosecution was brought against the appellants under sect. 83 (3) of the Act, the date of the offence with which they were charged was the date of the resale by the retailer and not the date on which the appellants supplied the retailer, and the prosecution was, therefore, not out of time.

(iii) on the true construction of sects. 79 and 83, the appellants were rightly convicted as for a second or subsequent offence.—*CONCENTRATED FOODS, LTD. v. CHAMP*, [1944] 1 K. B. 342; [1944] 1 All E. R. 272; 113 L. J. (K. B.) 417; 170 L. T. 302; 108 J. P. 119; 60 T. L. R. 194; 42 L. G. R. 82, D. C. [357]

Food and Drugs—Trade description—Egg substitute—“Equivalent in use to 12 eggs”—Whole description to be considered—Merchandise Marks Act, 1887 (c. 28), s. 3.

The respondents were charged under the Merchandise Marks Act, 1887, with unlawfully applying a false trade description to a packet of food inasmuch as it was described on the packet as being equivalent in use to 12 eggs. A label on the packet bore the following: “Contains dried egg (Foreign) Contents equivalent in use to 12 eggs.” The respondents contended that, in order to ascertain whether the wording was a trade description within the Act, it was only permissible for the court to look at so much of the words as formed part of the charge, and they argued that those words were only a statement as to the value of the food in question and not as to the material of which the food was composed, and the description was not, therefore, a trade description within the Act:—

Held: (i) in determining whether the label amounted to a trade description within the Act, it was permissible for the court to look at all the words on the label.

(ii) the words were indicative of the material of which the food was composed.—*EVANS v. BRITISH DOUGHNUT CO., LTD.*, [1944] 1 K. B. 102; [1944] 1 All E. R. 158; 113 L. J. (K. B.) 177; 170 L. T. 248; 108 J. P. 59; 60 T. L. R. 156; 42 L. G. R. 270, D. C. [358]

Food and Drugs—Milk—Milk tested while standing at appointed collecting point—Contract completely executed by producer—Whether milk still in producer’s possession—Possession—Food and Drugs Act, 1938 (c. 56), s. 24.

The respondent entered into an agreement with the Milk Marketing Board to sell to the Board all the milk produced at his farm. The agreement provided that the respondent should place the milk at a collecting point appointed by the Board, and that the property and risk in the milk should pass to the Board at the place of delivery when the milk was unloaded from the vehicle by which it was transported, and that the Board should arrange and pay for transport of the milk from the appointed collecting point to the place of delivery. The appellant tested a churn of milk produced on the respondent’s farm and which he found at a point on the side of the main road, this being the appointed collecting point under the agreement. Water had been added to the milk and the respondent was charged under the Food and Drugs Act,

1938, s. 24, with unlawfully having in his possession for the purpose of sale milk to which water had been added. The magistrates found that the milk was not in the respondent's possession, and on appeal:—

Held: when the milk was tested the respondent had placed the milk at the appointed collecting point and had done all that he was required to do under the agreement. There was, therefore, sufficient evidence to support the decision of the magistrates.—*OLIVER v. GOODGER*, [1944] 2 All E. R. 481; 42 L. G. R. 319, C. A. [359]

Appeals—Appeal to quarter sessions—Summons against retailer under Food and Drugs Act, 1938—Information laid by retailer against manufacturer under s. 83—First summons dismissed—Conviction on second summons—Appeal against conviction—Whether notice of appeal required to be given to prosecutor of first summons—Summary Jurisdiction (Appeals) Act, 1933 (c. 38), s. 1—Food and Drugs Act, 1938 (c. 56), ss. 3, 83.

The medical officer of health of a certain district served an information upon S. in respect of the Food and Drugs Act, 1938, s. 3 (1). S. availed himself of the procedure contained in s. 83 of the Act and served an information in respect of the same subject-matter on the Derbyshire Farmers' Dairy. At the hearing the summons against S. was dismissed and in the summons against the Derbyshire Farmers' Dairy a conviction was recorded. The latter wished to appeal and gave due notice to S. and sent a copy of the notice to the clerk of the court of summary jurisdiction with a further copy to be sent, if thought necessary, to the original prosecutor and to be sent as a matter of courtesy. The question for the determination of the court was whether the Summary Jurisdiction (Appeals) Act, 1933, s. 1, required due notice to be given to the medical officer of health. On behalf of the applicant it was contended that the only proceedings to which the medical officer of health was a party had been dismissed and that, therefore, it was unnecessary to give him notice of the appeal:—

Held: (i) the proceedings against S. and against the Derbyshire Farmers' Dairy constituted one set of proceedings and upon the true construction of the Summary Jurisdiction (Appeals) Act, 1933, s. 1, due notice of appeal should have been given to the prosecutor under the Food and Drugs Act, 1938, s. 3, namely, the medical officer of health.

(ii) the informal notice given to the medical officer of health was not such a notice as was required by the Summary Jurisdiction (Appeals) Act, 1933, s. 1.—*R. v. DERBY RECORDER, Ex p. SPALTON*, [1944] 1 K. B. 611; [1944] 1 All E. R. 721; 171 L. T. 222; 108 J. P. 193; 60 T. L. R. 445; 42 L. G. R. 204, D. C. [360]

Food and Drugs—Express warranty—Nature substance or quality demanded—"Cordial"—Whether cordial must contain substantial percentage of sugar—Implied warranty on sale by description—Sale of Goods Act, 1893 (c. 71), s. 13—Food and Drugs Act, 1938 (c. 56), s. 3.

The defendants entered into a verbal agreement with the plaintiffs to supply the plaintiffs with quantities of bottles of various drinks known as "cordials." During the transaction, which took place by telephone, the defendants stated that the goods conformed with the Food and Drugs Acts, and read out labels which contained the word "cordial." In their invoice they stated that the goods were of the "nature, substance and quality therein described" and complied with the Food and Drugs Act, 1938, s. 3, and the Sale of Goods Act, 1893, s. 13. It was found as a fact that the beverages supplied, though labelled "cordials," contained no sugar. The plaintiffs contended that, as a result, there had been a breach of warranties:—

Held: (i) the word "cordial" implied that the beverage contained a substantial percentage of sugar.

(ii) In the circumstances, there had been a breach of the warranty implied by the Sale of Goods Act, 1893, s. 13, on sale by description, and of express warranty under the Food and Drugs Act, 1938, s. 3.

Decision of TUCKER, J. ([1944] 2 All E. R. 42) *affirmed*.—*SOPERS OF HARROW, LTD. v. JOHNSTON & SON (LONDON), LTD., AND HENDERSON AND LIDDELL, LTD., AND COLLINS ARDEN PRODUCTS, LTD.*, [1944] 2 All E. R. 586, C. A. [361]

GAS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Defence (General) Regulations, 1939, Regulation 57AA amended —	PAGE
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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 57AA TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 66

January 20, 1944

After Regulation fifty-seven A of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

“ 57AA.—(1) Section fourteen of the Gas Undertakings Act, 1934 (which provides, where in any quarter the average calorific value of the gas supplied by gas undertakers in any examination area is ascertained to be deficient as compared with the declared calorific value, for the surrender by the undertakers of the resulting excess revenue), shall not have effect in relation to any such deficiency ascertained during the continuance in force of this Regulation if the mean of the average calorific values of the gas supplied by the undertakers in the area in question either—

- (a) in the quarter in which the deficiency occurred and in the last preceding quarter,
- (b) in the quarter in which the deficiency occurred and in the next following quarter, or
- (c) in the quarter in which the deficiency occurred, in the last preceding quarter and in the next following quarter,

is equal to or greater than the declared calorific value :

Provided that an excess of average calorific value as compared with declared calorific value in any quarter shall, to the extent to which it is needed in order to exclude the operation of the said section fourteen in relation to a deficiency occurring in the last preceding quarter, be disregarded in relation to a deficiency occurring in the next following quarter.

Subsection (2) of the said section fourteen (which provides for ascertaining the average calorific value of gas) shall apply for the purposes of this paragraph as it applies for the purposes of the said section fourteen ; and expressions used in this paragraph and in that section have the same meanings in this paragraph as in that section.

(2) Subsection (1) of section nine of the Gas Regulation Act, 1920 (which, as set out in the Second Schedule to the Gas Undertakings Act, 1934, provides for the forfeiture by undertakers of the sum specified in that section if for a

period of two hours or upwards the calorific value of gas supplied by the undertakers is more than five per cent. below the declared calorific value), shall not have effect during the continuance in force of this Regulation."

[362]

* * * * *

Note as to S. R. & O., 1944, No. 66.—*Under the Gas Undertakings Acts, 1920 to 1934, undertakers who charge for gas by the therm are required to notify the calorific value of the gas they supply (the "declared calorific value"). S. 9 (1) of the 1920 Act, as amended, imposes a penalty for a deficiency in calorific value over a short period. S. 14 of the 1934 Act requires the undertaker, if the average calorific value of the gas he supplies in any quarter falls below the declared calorific value, to surrender the excess revenue he receives through the deficiency, but does not apply if the deficiency in the quarter in question is not greater than a specified amount and the average of the calorific values in that quarter and the last preceding quarter was equal to or greater than the declared calorific value. The purpose of this Order is to suspend the operation of s. 9 (1) of the 1920 Act, and to allow an undertaker for the purposes of s. 14 of the 1934 Act to average the calorific value of his gas, whatever the amount of the deficiency, over the quarter in which the deficiency occurred and either or both of the preceding quarter, so far as not used to offset a previous deficiency, and the following quarter.*

ORDER IN COUNCIL AMENDING REGULATION 57AA OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 533

May 4, 1944

1. At the end of Regulation fifty-seven AA of the Defence (General) Regulations, 1939, there shall be added the following paragraph—

"(3) No test shall be taken into account by the Minister of Fuel and Power for the purposes of the said section fourteen if the Minister is satisfied that the test was carried out during a period during which, owing to circumstances arising from actual or intended operations of war extending outside the United Kingdom, it was not reasonable that the undertakers in question should be held to the requirements which would otherwise be applicable to them as to the calorific value of the gas which they supply; and no undertakers or non-statutory undertakers shall be liable to any forfeiture under subsection (3) of the said section nine in respect of the pressure or purity of the gas supplied by them if the court is satisfied that the deficiency or failure was due to demands on them arising from such circumstances as aforesaid or to steps reasonably taken by them to prevent or mitigate a shortage of gas which would otherwise arise from such circumstances as aforesaid." [363]

2. In the marginal note to the said Regulation fifty-seven AA for the words "calorific value" there shall be substituted the words "calorific value, pressure or purity." [364]

* * * * *

Note as to S. R. & O., 1941, No. 533.—*This Order relieves gas undertakers from the consequences of failing to supply gas of the proper calorific value, pressure and purity, if the failure is due to the exigencies of operations such as the invasion of the continent. S. 14 of the Gas Undertakings Act, 1934, referred to in the Order, provides for a surrender of excess revenue received by undertakers if tests show that the calorific value of the gas supplied falls below a certain standard and sub-s. (3) of s. 9 of the Gas Regulation Act, 1920, penalises failures to maintain the proper standards of pressure and purity.*

THE ACCOUNTS GENERAL DIRECTION AND ORDER, 1944

S. R. & O., 1944, No. 1299

November 21, 1944

The Minister of Fuel and Power in pursuance of Regulation 56 of the Defence (General) Regulations, 1939, hereby directs and orders as follows :—

1. The Accounts General Direction and Order, 1942, is hereby revoked. [365]

2. This General Direction and Order shall come into force on the 1st day of December, 1944, and may be cited as the Accounts General Direction and Order, 1944. [366]

* * * * *

Note to S. R. & O., 1944, No. 1299.—*This Order revokes as from December 1, 1944, the Accounts General Direction and Order, 1942, which prohibits (except as therein mentioned) the disclosure of accounts and certain reports and documents of statutory undertakings for the supply of gas and electricity and which relaxes, to the extent necessary to enable such prohibition to be complied with, obligations to publish the same imposed by or under any enactment with respect to such undertakings.*

HARBOURS

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	Defence (General) Regulations, 1939, Regulation 76 amended —	PAGE
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ORDERS, CIRCULARS AND MEMORANDA

THE LONDON AND NORTH EASTERN RAILWAY—SILLOTH DOCK—(INCREASE OF CHARGES) ORDER, 1944

S. R. & O., 1944, No. 366

March 29, 1944

The Minister of War Transport in exercise of his powers under Regulation 56 of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf hereby orders as follows :—

1. Notwithstanding any obligation or limitation imposed upon them by or by virtue of any Act or other instrument determining their functions the London and North Eastern Railway Company may charge in respect of tipping coal and coke at their Silloth Dock undertaking the rates specified in the schedule hereto. [367]

2. This Order shall come into force on the eighth day of April, 1944, and may be cited as “The London and North Eastern Railway—Silloth Dock—(Increase of Charges) Order, 1944.” [368]

THE SCHEDULE

Tonnage charge for tipping coal exclusive of weighing, per ton	6d.
Tonnage charge for tipping coke, exclusive of weighing, per ton	6½d. [369]

* * * * *

ORDER IN COUNCIL AMENDING REGULATION 45AA OF, AND THE FOURTH SCHEDULE TO, THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 743

June 29, 1944

- 1.—(1) In paragraph (1) of Regulation forty-five AA of the Defence (General) Regulations, 1939, after the words “two hundred tons or more” there shall be inserted the words “(not being a ship engaged exclusively on the work of any harbour, pilotage or local authority)”.
- (2) After paragraph (3) of the said Regulation forty-five AA, there shall be inserted the following paragraph:—
 “(4) In this Regulation the expression ‘pilotage authority’ has the same meaning as in the Pilotage Act, 1913.” [370]
2. In paragraph 3 of the Fourth Schedule to the said Regulations, for the word “subsection” there shall be substituted the word “subsections” and at the end of the said paragraph there shall be added, as an additional subsection to be substituted for subsections (1) and (2) of section one hundred and nineteen of the Merchant Shipping Act, 1894, the following subsection:—
 “(2) The master or owner of every home-trade ship shall upon the discharge of the crew deliver the agreement with the crew to the superintendent before whom the crew is discharged, and the superintendent shall give the master or owner a certificate of that delivery, and the ship may be detained until the certificate is produced to the proper officer of customs.” [371]

Note as to S. R. & O., 1944, No. 743.—Paragraph (1) of Regulation 45AA of the Defence (General) Regulations, 1939, makes certain modifications (set out in the Fourth Schedule to the Regulations) in Part II of the Merchant Shipping Act, 1894, so as to impose various requirements on the masters and owners of home-trade ships of two hundred tons or more similar to those applicable to foreign-going ships. The most important of these requirements is that crews shall be engaged and discharged before superintendents of Mercantile Marine Officers. Article 1 of the Order exempts from those requirements ships engaged exclusively on the work of any harbour, pilotage or local authority. Article 2 of the Order adds an additional requirement, namely, that the master or owner of such a home-trade ship shall deliver the agreement with the crew to the superintendent before whom the crew is discharged. A similar requirement already applies to foreign-going ships.

ORDER IN COUNCIL AMENDING REGULATION 76 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 746

June 29, 1944

- In Regulation seventy-six of the Defence (General) Regulations 1939 (which enables the Minister of War Transport to make orders for regulating the handling and conveyance of ammunition etc. in the area of any harbour authority in the United Kingdom, including orders modifying statutory restrictions with respect thereto) after the words “harbour authority”, wherever those words occur, and after the words “harbour authorities” in paragraph (1), there shall be inserted the words “or canal or inland navigation undertakers”.
- [372]

* * * * *

THE PUBLIC UTILITY UNDERTAKINGS (PREVENTION OF PUBLICATIONS) ORDER, 1944

S. R. & O., 1944, No. 1449

December 29, 1944

The Minister of War Transport (hereinafter referred to as "the Minister"), in exercise of the powers conferred upon him by Regulation 56 of the Defence (General) Regulations, 1939, having been duly designated by the Treasury as a competent authority for the purposes of the said Regulation in relation to lighthouse undertakings, and of all other powers enabling him in that behalf, hereby orders and directs as follows:—

1. The Orders and Directions of the Minister specified in the Schedule to this Order shall cease to have effect in relation to any undertaking which is not an undertaking to which this Order applies. [373]

2. Nothing in the Orders and Directions so specified shall henceforth be taken to prohibit the publication of copies of any of the accounts of an undertaking to which this Order applies, or of any report or other document which discloses information contained in any such account, after the expiration of a period of six months after the end of the year to which the account relates, or to suspend any obligation to publish such account, report or other document after the expiration of the said period of six months; and the said Orders and Directions shall be construed accordingly. [374]

3. This Order applies to any inland navigation, dock, harbour, pier or lighthouse undertaking, with respect to which a notice by the Minister given under this Order is served on the person carrying on the undertaking. [375]

4. A notice given under this Order shall state that the undertaking with respect to which it is given is an undertaking to which this Order applies, and may be served on the person carrying on the undertaking by sending it by registered post in a letter addressed to that person at his usual place of business. [376]

5. A notice given under this Order may be cancelled at any time by the Minister, and thereupon the undertaking with respect to which the notice was given shall cease to be an undertaking to which this Order applies. [377]

6. This Order shall come into force on the 1st day of February, 1945, and may be cited as "The Public Utility Undertakings (Prevention of Publications) Order, 1944". [378]

* * * * *

SCHEDULE

Directions dated April 1st, 1941 (S. R. & O., 1941, No. 452).

The Public Utility Undertakings (Prevention of Publications) Order, 1941 (S. R. & O., 1941, No. 485).

The Public Utility Undertakings (Prevention of Publications) Order, 1942 (S. R. & O., 1942, No. 164).

Directions dated March 20th, 1942 (S. R. & O., 1942, No. 508).

Directions dated April 10th, 1942 (S. R. & O., 1942, No. 685). [379]

Note as to S. R. & O., 1944, No. 1449.—*The Orders and Directions specified in the Schedule to this Order imposed restrictions on the publication of the accounts, and any reports or other documents disclosing information contained in the accounts, of certain classes of public utility undertakings concerned with transport services. They also suspended certain statutory and other obligations of the undertakers to publish any such accounts, reports or other documents. The Directions and Order made in 1941 also applied to undertakings concerned with the supply of electricity, but they ceased to apply to such undertakings in 1942 by virtue of a Direction and Order of the Minister of Fuel and Power relating to Gas and Electricity undertakings (S. R. & O., 1942,*

No. 2631). The present Order removes the restrictions and suspensions provided by the Orders and Directions in relation to all the other undertakings to which they applied except those with respect to which the Minister gives notice to the undertakers as provided by the Order, and in their case the restrictions have been modified. This method of continuing the restrictions to a modified extent, in relation to a limited number of undertakings in whose case such continuation is required for reasons of security, has been adopted for the same reasons instead of specifying the undertakings in the Order.

HIGHWAYS

ORDERS, CIRCULARS AND MEMORANDA :—			PAGE	CASES :—	PAGE
Nottinghamshire (County Roads Cesser) Order, 1944	—	—	186	Fisher v. Ruislip-Northwood Urban District Council and Middlesex County Council, [1944] 2 All E. R. 149	— — — 188
Cornwall (County Roads Cesser) Order (No. 2), 1944	—	—	187	Caseley v. Bristol Corpn., [1944] 1 All E. R. 14, C. A.	— — — 188
				Drake v. Bedfordshire County Council, [1944] 1 K. B. 620	— 189

ORDERS, CIRCULARS AND MEMORANDA

THE NOTTINGHAMSHIRE (COUNTY ROADS CESSER) ORDER, 1944

S. R. & O., 1944, No. 1239

October 24, 1944

Whereas the County Council of Nottinghamshire being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of Nottingham, made application to the Minister of War Transport (hereinafter referred to as "the Minister") for the issue of an Order declaring that the length of road which is more particularly described in the Schedule hereto (hereinafter referred to as "the road") and which is a county road within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to be a county road and shall become an ordinary highway ;

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the road to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the road should cease to be a county road and should become an ordinary highway ;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows :—

1. The road shall cease to be a county road and shall, subject to the provisions of the Act, as amended as aforesaid, become an ordinary highway. [380]

2. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [381]

3. This Order may be cited as "The Nottinghamshire (County Roads Cesser) Order, 1944", and shall come into operation on the date hereof. [382]

SCHEDULE

Description of Road

Borough of Mansfield.

So much of the superseded length of route A.611 as lies between the former junction of that route with route A.60 and a point approximately 0.15 miles to the south of that junction. [383]

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THE CORNWALL (COUNTY ROADS CESSER) ORDER (NO. 2), 1944

S. R. & O., 1944, No. 1331

November 29, 1944

Whereas the County Council of Cornwall being, within the meaning of the Highways and Locomotives (Amendment) Act, 1878 (hereinafter referred to as "the Act"), the County Authority of the Administrative County of Cornwall, made application to the Minister of War Transport (hereinafter referred to as "the Minister") for the issue of an Order declaring that the lengths of road which are more particularly described in the Schedule hereto (hereinafter referred to as "the roads") and which are parts of a county road within the meaning of the Act, as amended by the Local Government Act, 1929, shall cease to form parts of a county road and shall become ordinary highways;

And whereas the Minister, being of opinion that there was probable cause for the said application, caused the roads to be inspected by one of his Inspectors and, report having been made thereon, the Minister is satisfied that the roads should cease to form parts of a county road and should become ordinary highways;

Now, therefore, the Minister, in pursuance of the powers given to him in that behalf, hereby orders and declares as follows:—

1. The roads shall cease to form parts of a county road and shall, subject to the provisions of the Act, as amended as aforesaid, become ordinary highways. [384]

2. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament. [385]

3. This Order may be cited as "The Cornwall (County Roads Cesser) Order (No. 2), 1944", and shall come into operation on the date hereof. [386]

SCHEDULE

Description of Roads

Borough of Lostwithiel.

- (i) That length of The Parade which lies between a point 100 yards south of its junction with North Street and its junction with Fore Street;
- (ii) Fore Street, from its junction with The Parade to its junction with Queen Street. [387]

* * * * *

CASES

Highways—Obstructions—Air-raid shelter in roadway—Lighting—Shelter sometimes illuminated—Trap.

The plaintiff was driving a car at 3 a.m. in a district which he did not know when, without any negligence on his part, he collided with an unlit air-raid shelter on the side of the road and thereby sustained injury. The shelter had been erected under the Civil Defence Act, 1939, by the second defendants and was under the management of the first defendants; it was provided with lights which were sometimes illuminated and sometimes not.

On behalf of the plaintiff it was contended that the defendants had, by illuminating the shelter, imposed upon themselves a duty not to lay a trap for users of the road by failing to illuminate the shelter :—

Held : since the plaintiff was a stranger to the district, it could not be said that the defendants had to his knowledge adopted a lighting system whereby he was led to believe that, whenever there was an obstruction, there would be a light. The defendants were, therefore, not liable to the plaintiff.—*FISHER v. RUISLIP-NORTHWOOD URBAN DISTRICT COUNCIL AND MIDDLESEX COUNTY COUNCIL*, [1944] 2 All E. R. 149 ; 42 L. G. R. 280. [388]

Highways—Excavation near highway—Dock basin—47 ft. from highway at nearest point—Injury to person wandering from highway—Fog.

The corporation, the appellants, owned a dock basin known as the Cumberland Basin. On a very foggy night, in the black-out, C., who was walking home, wandered from the road, which was a public highway, and fell into the basin and was drowned. Between the highway and the basin there was a strip of land 47 feet wide at its narrowest point. This land was the property of the corporation who were the successors in title of a company which constructed the basin under an Act of 1803. It was contended for the respondent that the corporation had committed a breach of its common law duty to users of the highway in that it had maintained an unfenced basin adjoining the highway. It was also contended that the strip of land was indistinguishable from the highway and as the night was foggy the corporation was under an obligation to take special precautions. Further, it was said that the deceased was a licensee :—

Held : (1) the corporation was under no obligation to fence the basin and had committed no breach of duty.

(ii) assuming that the deceased man was a licensee, the corporation were under no liability as a licensee must take a place as he finds it.—*CASELEY v. BRISTOL CORPN.*, [1944] 1 All E. R. 14, C. A. [389]

Highways—Repair—Continuing nuisance—Trunk road—County council agents for Minister of Transport—Whether defences open to highway authority available to county council.

The plaintiff's husband in October 1942, was lawfully and without negligence proceeding along a footpath, part of a highway, when he fell through a gap in the railings which adjoined the footpath and suffered injuries from which he died. The defendants were the highway authority for the area in question until January 1937, when it became vested as a trunk road in the Minister of Transport. By agreement in April 1937, the defendants became the agents of the Minister and undertook the repair of the highway. Between July and October 1937, a motor vehicle damaged the railings in question and a low brick wall which supported them. Some of the fragments were removed after the collision but the gap in the railings was never repaired. It was found as a fact that the gap was a danger. An action was commenced on March 15, 1943, by the plaintiff under the Law Reform (Miscellaneous Provisions) Act, 1934, and the Fatal Accidents Acts against the defendants as the highway authority, or as the agents of the highway authority, or as the county council, for the area in question on the ground that the deceased's death was caused by the negligence of or the nuisance committed by the defendants. On behalf of the defendants it was contended (i) that they were not the highway authority for the area in question at the time of the accident and had not been so since April 1937 ; (ii) alternatively, that the failure to keep the fence in repair was a non-feasance ; and (iii) that they were protected by the Public Authorities Protection Act, 1893, s. 1 :—

Held: (i) the gap in the railings constituted a continuing nuisance for which the defendants were liable.

(ii) the removal of the debris after the accident in 1937 and the failure to replace the railings was a misfeasance, but, if it were non-feasance, the defendants were merely the contractors of the highway authority, and could not reply upon a defence open only to the highway authority.

(iii) since the defendants were merely contractors, they were not entitled to the protection of the Public Authorities Protection Act, 1893.—*DRAKE v. BEDFORDSHIRE COUNTY COUNCIL*, [1944] 1 K. B. 620; [1944] 1 All E. R. 633; 113 L. J. (K. B.) 328; 170 L. T. 351; 108 J. P. 237; 60 T. L. R. 304; 88 Sol. Jo. 239; 42 L. G. R. 188. [390]

HOSPITALS

See DISEASE.

HOUSING

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STATUTES

HOUSING (TEMPORARY PROVISIONS) ACT, 1944

(7 & 8 Geo. 6, c. 33)

PRELIMINARY NOTE

The object of this Act is to enable local authorities to proceed with the erection of new houses at the earliest possible moment. For this purpose the Act temporarily makes two changes in the law :—

(1) It amends the Housing (Financial Provisions) Act, 1938, which limited the grant of Exchequer subsidy to houses built by local authorities to provide for slum clearance, for the abatement of overcrowding and for the housing of agricultural workers, by removing this restriction and enabling the subsidy to be paid in respect of houses built by local authorities to meet general needs.

(2) In order to facilitate the acquisition of land for housing purposes, the procedure relating to the compulsory purchase of land for housing sites is temporarily modified, and section 2, *post*, enables the Minister of Health, during a limited period, to approve any compulsory purchase order submitted to him by a housing authority without holding a public local inquiry.

[391]

An Act to extend the making of contributions under section one of the Housing (Financial Provisions) Act, 1938, as respects new housing accommodation provided by local authorities before the first day of October, nineteen hundred and forty-seven; and to suspend temporarily the holding of local inquiries in respect of certain compulsory purchase orders. [392] [3rd August, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Contributions to be made in respect of new housing accommodation provided by local authorities before specified date.—As respects any new house completed after the passing of this Act and before the first day of October, nineteen hundred and forty-seven by way of housing accommodation provided by a local authority, the Housing (Financial Provisions) Act, 1938 (which provides for contributions out of the Exchequer and by local authorities in respect of certain housing accommodation provided by local authorities) shall, as amended by any subsequent enactment, apply as if so much of section one thereof as limits the operation of that section to such housing accommodation as is specified in subsection (5) of that section (namely, accommodation for housing persons displaced from insanitary houses or from clearance or improvement areas or by the carrying out of redevelopment plans, and accommodation required for the abatement of overcrowding) were omitted. [393]

Effect of section.—This section enables Exchequer subsidy to be paid in respect of any houses erected by a local authority and completed between August 3, 1944, and October 1, 1947.

Housing (Financial Provisions) Act, 1938.—By s. 1 (5) of that Act subsidy is payable in respect of housing accommodation provided under slum clearance and redevelopment schemes, and for the abatement of overcrowding. By s. 2, *ibid.*, subsidy is also payable to rural authorities in respect of houses provided for the agricultural population.

Any subsequent enactment.—It is the intention of the Government to introduce legislation increasing the rate of subsidy payable under the Act of 1938 as soon as it is possible to form a reasonable view of what building costs will be during the period ending on October 1, 1947, and of what will be an appropriate level of rent.

2. Compulsory purchase orders : temporary suspension of local inquiries.—Notwithstanding anything in the First Schedule to the Housing Act, 1936, in the case of a compulsory purchase order under Part V of that Act submitted to the Minister after the date of the passing of this Act and before the expiration of two years from that date, where any objection is made to the order and is not withdrawn, the Minister may, after considering the objection, confirm the order (with or without modification) without causing a public local inquiry to be held. [394]

Effect of section.—This section is permissive only, and the Minister is not bound to dispense with a local inquiry. In order to give effect to the section, a consequential amendment has been made in the Housing Act (Form of Orders and Notices) Regulations, 1937, S. R. & O., 1937, No. 78 (as previously amended by S. R. & O., 1939, No. 30), by the Housing Act (Form of Orders and Notices) Amendment Regulations, 1944, P. R. & O., dated September 2, 1944, which are retrospective to August 3, 1944, when this Act received the Royal Assent.

3. Short title, construction, citation and extent.—(1) This Act may be cited as the Housing (Temporary Provisions) Act, 1944. [395]

(2) This Act shall be construed as one with the Housing Act, 1936; and in that Act the expression "the Housing Acts" shall, unless the context otherwise requires, be construed as including this Act. [396]

(3) The Housing Acts, 1936 and 1938, and this Act may be cited together as the Housing Acts, 1936 to 1944. [397]

(4) This Act shall not extend to Scotland or to Northern Ireland. [398]

Housing Act, 1936.—For the definition of the expression "the Housing Acts," see s. 188 (1) of that Act.

Housing Acts, 1936 and 1938.—These are the Housing Act, 1936, and the Housing (Financial Provisions) Act, 1938; see s. 12 of the latter Act.

HOUSING (TEMPORARY ACCOMMODATION) ACT, 1944

(7 & 8 Geo. 6, c. 36)

PRELIMINARY NOTE

The object of this Act is to facilitate the provision of temporary houses in accordance with the Government's policy.

Sections 1-3, *post*, provide for a novel form of co-operation between the Government and the local authorities. The Minister of Health is to provide, to erect and to continue to own the temporary houses contemplated by the Act, and the local authority is to choose and provide the sites, lay out the necessary roads and supply the requisite public services, and generally to manage the houses after erection.

Section 5, *post*, confers power to enter on land proposed to be acquired at an early stage in order that the local authority may determine whether it is suitable for the purpose, survey it, take levels, etc. Section 6, *post*, simplifies the procedure for taking possession of land and for its compulsory acquisition.

Section 8, *post*, enables the necessary money to be raised to defray the expenses of the Minister under the Act. [399]

ARRANGEMENT OF SECTIONS

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An Act to make provision for temporary housing accommodation, and for purposes connected therewith. [400] [10th October, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Provision for making structures for temporary housing available to housing authorities.—With a view to enabling local authorities for the purposes of Part V of the Housing Act, 1936 (in this Act referred to as “ the principal Act ”) to provide as a matter of urgency temporary housing accommodation for the purposes of the discharge of their duties under the said Part V, the Minister of Health (in this Act referred to as “ the Minister ”) may, by arrangements made by him with the Minister of Works for the manufacture or construction thereof and for the erection thereof on land acquired or appropriated for the purposes of the said Part V by any such authority, make structures for use by any such authority for providing such accommodation available to the authority on such terms as the Minister may agree with them :

Provided that, unless it is otherwise hereafter determined by Parliament, no structures shall be made available under this section after the first day of October, nineteen hundred and forty-seven, other than structures intended to be made available before that date whose manufacture or construction was

put in hand at a time when it appeared to the Minister that it would be practicable to make them available before that date. [401]

Effect of section.—Under this section temporary houses are to be supplied, transported to the site and erected by the Government, who will continue to own them after erection, but the site itself is to be provided and developed with the necessary roads and services by the local authority. See, further, the Memorandum on Temporary Accommodation issued for the guidance of local authorities by the Ministries of Works and Health (S.O. Code No. 32-365).

Housing Act, 1936, Part V.—As to local authorities for the purposes of the Act generally, see s. 1 of the 1936 Act; as to local authorities in London for the purposes of Part V, see s. 103 of that Act as adapted by s. 4 (3), *post*. Powers relating to the acquisition and appropriation of land for housing purposes are contained in ss. 73-82 of the 1936 Act, as adapted (in the case of s. 73) by s. 4 (2), *post*.

2. Removal of structures made available under s. 1.—(1) The Minister may cause a structure made available under the preceding section, together with any fittings forming part thereof, to be taken down and removed under arrangements made by him with the Minister of Works, on giving to the local authority such notice of his intention in that behalf as may be provided for by the terms agreed and shall do so on being requested to do so by the local authority at any time after the expiration of ten years from the passing of this Act unless it appears to the Minister that housing conditions require that it should remain, but whilst remaining on the land the structure and any such fittings as aforesaid shall be deemed to be fixtures forming part of the freehold of the land. [402]

(2) Where the Minister causes a structure to be removed under this section, he may, if the local authority so request, cause to be executed under arrangements made as aforesaid all such works as may be required for clearing the land of any substructure or other materials affixed to the land for the purposes of the erection of the structure. [403]

(3) Structures, fittings and materials removed under this section shall be held or disposed of for the benefit of the Crown in such manner as the Minister may determine. [404]

Effect of section.—This section enables the Minister of Health to remove any temporary houses at any time subject to an obligation to make good the site, and requires him so to do on the request of the local authority, made at any time after October 10, 1954, unless the prevailing housing conditions, as opposed to questions of finance, make it desirable that removal should be postponed.

Terms agreed.—See s. 1, *ante*.

Fixtures forming part of the freehold.—This provision makes it clear that the local authority is to draw the rent from the houses.

3. Terms on which structures may be made available under s. 1.—(1) The terms on which a structure may be made available under section one of this Act shall include provision for the making of a payment by the local authority to the Minister for each financial year, or part of a financial year, during which the structure remains on the land :

Provided that, in the case of a structure made available for erection on land of exceptionally high value, the said terms may either—

- (a) not include any such provision, or
- (b) not include any such provision but on the contrary provide for the making of a contribution by the Minister out of moneys provided by Parliament towards expenses incurred by the local authority in connection with the provision and maintenance of housing accommodation in the structure. [405]

(2) The said terms may include any such provisions with respect to the use, management or maintenance of the structure in question, to the execution by or at the expense of the local authority of any works in connection with the erection of the structure or with the provision of housing accommodation therein, or to other relevant matters, being provisions consistent with the

provisions of this Act and of the principal Act, as may appear to the Minister to be expedient. [406]

Effect of section.—The section provides that the terms to be agreed between the Minister of Health and a local authority under s. 1, *ante*, may provide either—

- (a) for an annual payment by the authority to the Minister; or
- (b) that no payment shall be made by either party; or
- (c) that the Minister shall contribute towards the cost incurred by the authority in acquiring and laying out the site.

Principal Act.—This means the Housing Act, 1936.

4. Adaptation of certain provisions of principal Act.—(1) The provisions of the principal Act relating to houses provided by a local authority under Part V of that Act shall, as respects the period during which structures made available under section one of this Act remain on the land, have effect in relation to such structures, and housing accommodation provided in such structures shall be deemed to be provided under the said Part V. [407]

(2) In paragraph (a) of section seventy-three of the principal Act (which confers on a local authority power to acquire land as a site for the erection of houses) the reference to a site for the erection of houses shall be deemed to include a reference to a site for the erection of structures which may be made available to the local authority under section one of this Act, and any land acquired under that paragraph as such a site shall be deemed to be land acquired for the purposes of the said Part V. [408]

(3) In paragraph (b) of the proviso to subsection (4) of section one hundred and three of the principal Act (which provides that, without prejudice to the powers conferred on a metropolitan borough council by that Act with respect to the provision of housing accommodation within their borough, the London County Council shall be a local authority for the purposes of Part V of the principal Act as respects any part of the administrative county of London, other than the City of London, for the purpose of providing such housing accommodation as is mentioned in sub-paragraphs (i) to (iii) of that paragraph) the following sub-paragraph shall be inserted, that is to say—

“(iv) temporary accommodation in structure made available under section one of the Housing (Temporary Accommodation) Act, 1944.” [409]

(4) The Minister's making any such arrangements as aforesaid shall not nor shall any approval given by him in connection with the execution of any such arrangements or the use of any structures the subject thereof, be treated as an approval by him for the purposes of subsection (2) of section one hundred and thirty-eight of the principal Act (which provides that, where the Minister has approved plans and specifications inconsistent in certain respects with building byelaws, proposals for such works as are therein mentioned involving departure from the byelaws only to the like extent as in the case of the plans and specifications approved by the Minister may be carried out). [410]

Principal Act, Part V.—This means the Housing Act, 1936, Part V. See also the notes to s. 1, *ante*.

Principal Act, s. 103 (4), proviso (b).—By the amendment of this proviso the London County Council, which has a general power under the principal Act of providing housing accommodation outside the administrative county of London, but has only a limited power of providing housing accommodation within the county, may exercise the powers conferred on a local authority by s. 1, *ante*, both within and without the county. Within the county the London County Council and Metropolitan Borough Councils have, therefore, concurrent powers under this Act.

5. Power to enter on land to ascertain whether it is suitable for erection of structures to be made available under s. 1.—(1) A person authorised in writing by a local authority for the purposes of Part V of the principal Act may at all reasonable times, on production if required of his authority, enter upon land which the local authority are authorised to purchase compulsorily

for the purposes of the said Part V, or the acquisition of which for those purposes is under consideration by them, for the purpose of determining whether the land is suitable as a site for the erection of structures which may be made available to the local authority under section one of this Act and the plan on which any such structures should be laid out thereon, and of surveying, taking levels or probing or boring for that purpose, or for the purpose of estimating the value of the land :

Provided that if the land is occupied, admission thereto shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier. [411]

(2) A local authority shall make to any person who sustains and damage by reason of anything done, in exercise of powers conferred by this section, by a person authorised by them, compensation in respect thereof of an amount to be determined by agreement between them and that person, or, in default of agreement, by an arbitrator to be appointed, in default of agreement, by the Minister. [412]

Effect of section.—This section enables the work of preparing lay-outs to proceed before the site is acquired, subject to the payment of compensation for damage caused.

6. Temporary powers for obtaining possession of land for erection of structures to be made available under s. 1.—(1) During the period between the passing of this Act and the end of the year nineteen hundred and forty-five the provisions of the next succeeding subsection shall have effect for enabling a local authority for the purposes of Part V of the principal Act to obtain possession of land for use as a site for structures to be made available under section one of this Act. [413]

(2) A local authority for the said purposes may enter upon and take possession of land as to which the Minister is satisfied that it is required for use as aforesaid if authorisation in writing in that behalf has been given to them in accordance with the following requirements, that is to say—

- (a) the authority must have served, in manner mentioned in the next succeeding subsection, on every owner and occupier of any of the land in question a notice in writing stating that they have made or intend to make an application to the Minister for an authorisation under this subsection as respects land described in the notice, being land consisting of or comprising the land in question, and that representations which any of the persons required to be served desires to make must be made to the Minister in writing within fourteen days from the date of the service of the notice on him ; and
- (b) the Minister must, before giving the authorisation, have considered any representations made to him as aforesaid by any of the persons aforesaid. [414]

(3) Such a notice as is mentioned in the last preceding subsection shall be deemed to be duly served—

- (a) on a person being an owner or occupier of any of the land in question if such a notice, addressed to him by name, is delivered to him or left at, or sent by post in a prepaid letter to, his usual or last known place of abode ;
- (b) on a person being an owner or occupier of any premises comprised in the land in question which appear to the local authority to be separately occupied, if such a notice, addressed to " the owner and the occupier " of the premises (describing them), is delivered to some person on the premises, or, if there is no person on the premises to whom it can be delivered, is affixed to some conspicuous object on the premises ;

- (c) on all persons being owners or occupiers (if any) of premises comprised in any part of the land in question which appears to the local authority to be unoccupied, if such a notice, addressed to "the owners and any occupiers" of that part of the land (describing it), is affixed to some conspicuous object on that part of the land. [415]

(4) Where a local authority have taken possession of land pursuant to an authorisation under this section, they shall by virtue of this section have power to acquire the land compulsorily as if they had been authorised so to do by an order under section seventy-four of the principal Act, made, submitted and confirmed in accordance with the provisions of the First Schedule thereto, incorporating the enactments required to be incorporated in such an order with the modifications and adaptations appropriate to such an order, and the authority shall as soon as may be after taking possession of the land serve notice under section eighteen of the Lands Clauses Consolidation Act, 1845, of their intention to take the land and shall in all respects be liable as if such notice had been given on the date of their entering on the land, except that the power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw such a notice shall not be exercisable. [416]

(5) A power to enter on and take possession of land conferred by an authorisation given under this section may, save as hereinbefore in this section provided, be exercised without notice to or the consent of any person and without compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to payment of the like compensation, and interest on the compensation agreed or awarded, as the local authority would have been required to pay if those provisions had been complied with. [417]

(6) While a local authority are in possession of land pursuant to an authorisation given under this section,—

- (a) the land may be used for the erection thereon of structures made available under section one of this Act, and all works required for that purpose may be executed thereon;
- (b) the land may be used for the provision of housing accommodation in such structures erected thereon, and the authority may make contracts for the occupation of the land and such structures erected thereon by the persons for whom housing accommodation is to be provided therein;
- (c) any right of way over the land, or other right relating thereto enjoyed by any person whether by virtue of an interest in the land or otherwise, shall, in so far as the exercise thereof would interfere with the use of the land as aforesaid or the execution of any such works as aforesaid, not be exercisable. [418]

(7) In this section the expression "owner" has the meaning assigned to it by section one hundred and eighty-eight of the principal Act. [419]

Effect of section.—This section, which is operative only until December 31, 1945, simplifies the procedure for obtaining possession of land as a site for temporary houses. See, further, para. 5 of the Memorandum on Temporary Accommodation issued for the guidance of local authorities by the Ministries of Works and Health (S.O. Code No. 32-365).

Notice in writing.—The form of notice to be given pursuant to sub-s. (2) (a) is prescribed by the Housing (Temporary Accommodation) Regulations, 1944, P. R. & O., 1944, dated October 16, 1944.

Lands Clauses Consolidation Act, 1845, ss. 84 to 90.—These sections relate to the deposit of security.

Principal Act, s. 188.—"Owner" is defined in this section as meaning a person other than a mortgagee not in possession who is entitled to dispose of the fee simple, whether in possession or reversion, and as including also a person entitled to rents and profits under a lease or agreement, the unexpired term whereof exceeds three years.

7. Application to Scotland.

8. Financial provisions.—(1) The Treasury may issue out of the Consolidated Fund of the United Kingdom sums not exceeding, unless it is otherwise hereafter determined by Parliament, one hundred and fifty million pounds to defray the expenses incurred by the Minister of Works in connection with the manufacture, construction or erection of structures under arrangements made as aforesaid. [420]

(2) For the purpose of providing sums to be issued under the preceding subsection, the Treasury may at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this subsection shall be deemed for all purposes to have been created and issued under the National Loans Act, 1939. [421]

(3) The following provisions of this subsection shall have effect as respects the repayment of sums issued under subsection (1) of this section, that is to say :—

(a) the aggregate of the sums so issued in any financial year shall be repaid into the Exchequer, as mentioned in the next succeeding paragraph, with interest thereon at the rate of two and a half per cent. per annum, the said interest accruing, as respects the whole aggregate, from such date in the financial year in which the sums are issued as the Treasury may determine ;

(b) the said aggregate shall be repaid by ten equal annual instalments, of principal and interest combined, falling due on the anniversary of the date determined under the preceding paragraph, the first such instalment falling due in the financial year next following the financial year in which the sums in question were issued ;

(c) any instalment to be paid into the Exchequer under the last preceding paragraph shall be paid, as to such part thereof as the Treasury may direct out of moneys provided by Parliament for the service of the Ministry of Health, and as to the remainder thereof out of moneys so provided for the service of the Department of Health for Scotland. [422]

(4) The sums paid into the Exchequer under the last preceding subsection shall be issued out of the Consolidated Fund of the United Kingdom at such times as the Treasury may direct and shall be applied by the Treasury as follows :—

(a) so much thereof as represents principal shall be applied in redeeming or paying off debt of such description as the Treasury think fit ;

(b) so much thereof as represents interest shall be applied to the payment of interest which would, apart from this paragraph, have fallen to be paid out of the permanent annual charge for the National Debt.

[423]

(5) Expenses incurred in the removal of structures, fittings or materials under section two of this Act shall be defrayed out of moneys provided by Parliament, and the proceeds of any disposal thereof under that section shall be paid into the Exchequer. [424]

(6) Receipts of the Minister under subsection (1) of section three of this Act shall be paid into the Exchequer. [425]

(7) The Minister of Works shall, as respects each financial year in which sums are issued out of the Consolidated Fund under subsection (1) of this section or in which he incurs expenses as mentioned in that subsection, prepare in such form and manner as the Treasury may direct an account of sums so issued and received by him and of such expenses incurred by him.

Any account prepared under this subsection shall, on or before the thirtieth day of November next following the expiration of the financial

year in question, be transmitted to the Comptroller and Auditor General who shall examine and certify the account and lay copies thereof, together with his report thereon, before Parliament. [426]

9. Short title, construction, citation and extent.—(1) This Act may be cited as the Housing (Temporary Accommodation) Act, 1944. [427]

(2) This Act, in its application to England, shall be construed as one with the principal Act, and may be cited together with the Housing Acts, 1936 and 1938, as the Housing Acts, 1936 to 1944. [428]

(3) This Act, in its application to Scotland, shall be construed as one with the Housing (Scotland) Acts, 1925 to 1938, and may be cited together with those Acts as the Housing (Scotland) Acts, 1925 to 1944. [429]

(4) This Act shall not extend to Northern Ireland. [430]

Principal Act.—The Housing Act, 1936.

Housing Acts, 1936 and 1938.—These are the Housing Act, 1936, and the Housing (Financial Provisions) Act, 1938; see s. 12 of the latter Act. The Housing (Temporary Provisions) Act, 1944, is also to be cited with these two Acts as the Housing Acts, 1936 to 1944; see s. 3 therefore, *ante*.

ORDERS, CIRCULARS AND MEMORANDA

Circular 14/44

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.

To Housing Authorities,
County Councils (for information),
(England).

21st February, 1944.

SIR,

ADVANCE PREPARATION OF HOUSING SITES

I am directed by the Minister of Health to state that, in order to enable the building of houses to start without delay as soon as circumstances permit, the Government have examined in consultation with the associations of local authorities the possibility of assisting local authorities to carry out works of site preparation (including the provision of roads and sewers) in advance during 1944.

It is anticipated that during the next few months the organisation, specialist labour and plant of a number of civil engineering contractors who have been engaged upon the construction of airfields will be freed from this work and the Government have decided to make these resources available for the preparation of housing sites. The arrangements which it has been found possible to make are described in the accompanying memorandum and the Minister is confident that local authorities, who are so deeply concerned to remedy at the earliest possible moment the acute housing difficulties with which they have been faced during the years of war, will wish to avail themselves, wherever practicable, of the opportunity of putting in hand this preparatory work without delay.

It will be observed from the memorandum that the grouping of sites in sufficient numbers to form an area adequate for the purposes of a contract is an essential factor of the scheme.

The preliminary arrangements which will be necessary to enable the authority to take advantage of the scheme will, therefore, be:—

- (1) The formation of appropriate groups.
- (2) The ownership of and right of entry on land which is to be used.
- (3) The preparation of lay-outs in sufficient detail to enable work to be started.

The Minister is advised that, to obtain the best results an area for the purpose of a contract should include sites sufficient for say 2,000 houses, within a radius of say 30 miles, and that no individual site of less than five acres should be included. It is his desire that the local authorities should act in agreement and that they should arrange local conferences in order that arrangements for grouping may be agreed. The Minister has instructed his Senior Regional Officer to give every possible assistance and he will be getting in touch with the local authority at an early date.

It would not be possible to organise and carry out the work economically on this basis if one contractor were responsible to a number of local authorities and it will be necessary for a single contract to be entered into by one authority on behalf of the group constituting the area. The conference should, therefore, agree on a group leader for this purpose, and, as soon as possible after the conference the individual local authority should let their leader and the Ministry of Health, through the Senior Regional Officer, have particulars of the sites which they desire to have included in the scheme. Forms for this purpose are enclosed.

Sites whether already in the possession of the authority or to be acquired may be included to the extent to which the authority contemplate that they will be used for the erection of houses within the first two years after the war. Where land is to be acquired, the local planning authority and the Regional Planning Officer of the Ministry of Town and Country Planning should be consulted at the outset. The authority should send to the Regional Planning Officer information in triplicate as to the area and location of the sites and the approximate number of houses to be erected. The Regional Planning Officer will consult the Rural Land Utilisation Officer of the Ministry of Agriculture and Fisheries, with whom the authority will no longer be required to make separate contact. This procedure, which will apply to all local authorities' housing developments until further notice will in future be substituted for that laid down in paragraph 4 of Circular 2778 and in Circular 2802.

The same procedure should be followed in the case of sites in the possession of the authority which have not already been submitted to the County War Agricultural Executive Committee (or the Rural Land Utilisation Officer) and the local planning authority.

Some of the sites already owned by the local authority which are to be developed under this scheme will be under cultivation either as allotments or as agricultural land. There must, therefore, be in some cases an inevitable conflict between the interests of home food production and those of the housing programme. The Government have decided that the balance of advantage lies in proceeding with a scheme which will be of such practical importance for post-war housing. In selecting the sites to which the scheme is to be applied the local authority should arrange the programme of development in such a way as to entail the least possible disturbance of food production. Where practicable sites under cultivation should be left until after the growing crops have been harvested.

In some cases the use of allotments will be unavoidable. There will be criticism if a local authority gives notice now to an allotment holder to vacate his plot and then no work is done on it before next autumn. There will equally be criticism if an allotment holder is allowed to continue on his plot for the coming season and sees his work ruined by the commencement of housing operations this spring or summer. Local authorities will therefore need to give very careful consideration to the question of when they should give notice to the allotment holders terminating their occupation.

When a local authority or group of authorities have arranged for a scheme to be undertaken by contractors, the authorities will know which allotments will be involved and approximately when machinery will be available to start

the work. It is suggested that the authority should then take their Allotments or Horticultural Committees and the local Allotments Societies into their confidence so that as early notice as possible can be given to the allotment holders. To leave giving the notice until the last moment would create the maximum of confusion and irritation.

Local authorities, however, should give careful consideration to the question before giving notice in cases where there is doubt whether housing operations will actually commence before next autumn. In such cases of doubt it might very well be better to allow the allotment holders to continue in occupation of their plots. A few cases of allotments left uncultivated throughout the growing season owing to the housing operations not commencing until the autumn would probably cause more criticism than a few cases of cultivated allotments being disturbed before the autumn, if housing operations commenced earlier than expected.

When it is necessary to take possession of a site owned by the authority but let to a tenant before the expiration of the tenancy, compensation will, of course, be payable and the cost will form part of the cost of the housing scheme. The Minister has no doubt that on this basis arrangement for entry can usually be made by agreement, but if difficulty arises in respect of the time of entry on any sites which it is agreed should be developed under the scheme, the Minister will be prepared to extend the powers already delegated to you under Circular 1949, dated 18th January, 1940, for the purpose of taking possession of land owned by the authority and required for immediate development in advance of the construction of houses. In order to facilitate the securing of possession by voluntary means it will obviously be in the interests of the authority to arrange the terms of compensation on a sufficiently generous basis to secure the end in view and thus avoid recourse to the exercise of powers of requisition.

When the arrangements for grouping have been settled it will be necessary to prepare and obtain approval of the lay-out plans of the sites. The order of development should be determined with due regard to the claims of food production, the possibilities of obtaining entry upon the land and of preparing the lay-out. The authorities should work in co-operation under their selected leader and should make all practicable arrangements for pooling for this purpose the technical staff available. A time-table for the ordered development of the sites should be worked out and the arrangements for preparing lay-outs related to this time-table. Unless sites can be made available as they are required for the orderly progress of these large contracts, the scheme will break down. Subject to what is said above about the need for considering the interests of allotment holders it is essential that local authorities should make quite certain that each site included in the scheme will be available on the date agreed with the contractor.

It is desirable that water mains should be laid, if possible, at the same time as the development of roads and sewers. Gas Undertakings should also be given the opportunity of co-operating in the scheme and it will, in any case, be necessary for sections of gas and water mains to be laid at street crossings. Electricity undertakings should be given the opportunity of saying whether they wish ducts to be provided at street crossings. The Water, Gas and Electricity Undertakings should, therefore, be approached on the basis that trenching or ducting undertaken on their behalf should be carried out by the main contractor, the cost being recovered from the Undertaking by the authority responsible for the contract. The actual laying of mains should normally be done by the Undertakings themselves. If arrangements on these lines are likely to lead to delay in the preparation of the scheme the provision of services should be omitted except for necessary work at street crossings.

Lay-out plans for the individual sites should be agreed with the local planning authority and then submitted in duplicate to the Ministry of Health

through the Senior Regional Officer. In planning lay-outs regard should be had to the probable development of surrounding areas.

Further advice as to specifications, tenders and contracts will be sent to the authority at an early date but in view of the importance of getting through the preliminary work of grouping into suitable areas and settling the arrangements as to sites and lay-outs with the minimum of delay in order to take the fullest possible advantage of the building season, action should not be delayed pending the receipt of this information.

I am, Sir, etc.

The Clerk to the Authority.

Enclosure to Circular 14/44

ADVANCE PREPARATION OF HOUSING SITES

1. The outlines of the scheme which is proposed are as follows :—

- (i) Sites should be grouped in order to provide a contract of sufficient size. It would not be possible to organise and carry out the work economically on this basis if the contractor were responsible to a number of authorities within his area. Either, therefore, an area should be confined to the sites belonging to one large authority with a sufficiently large programme to justify this, or the authorities in an area should form a group and one of their number acting on behalf of them all should be responsible for the contract.
- (ii) In each area a site preparation contract will be let to a suitable large contractor, and this contract will cover all the sites in the area. The contractor will be responsible for organising the work as between the different sites, moving his plant and key men from site to site in accordance with the most economical method of carrying out the work.
- (iii) The contractors to be employed will be approved by the Government since the overloading of particular contractors must also be avoided.
- (iv) The contractual arrangements should be agreed by the Government so as to be reasonably uniform. Provision will however be made for approved variations in the specifications to meet varying local conditions.
- (v) Local authorities may have to secure additional technical assistance to enable them to prepare the layouts and the information necessary to enable contracts to be let, and to supervise the contracts when let. It may be that some members of the technical staffs of local authorities are at present employed upon the airfield programme. It may sometimes be most economical where groups are formed for staff to be obtained by the leading local authority and for them to prepare layouts, etc., for the other members of the group. When arrangements for grouping have been made, local authorities should if the work cannot be done by their existing staff or by local professional firms in private practice, apply to the Appointments Department of the Ministry of Labour and National Service for fresh staff. Applications for men with full professional qualifications should be made to the Central (Technical and Scientific) Register, Alexandra House, Kingsway, London, W.C.2 ; and applications for other technical staff should be made to the provincial Appointments Offices.

- (vi) If the authorities in any area, while unable or unwilling to form a suitable group, still wish to take advantage of the scheme, the Ministry of Health will ask the Ministry of Works to accept responsibility for placing and running the contracts, as agent for the local authorities, which will remain responsible for the layout of sites and the provision of all necessary information.

2. The Ministry of Works estimate that the cost of carrying out the work at present prices, provided runway contractors' methods are used on a large scale, would be approximately £55 per house, excluding water, gas and electricity services except at street crossings. The cost will form part of the cost of the housing scheme of the local authority. It is hoped that so far as possible local authorities will be able to avoid external borrowing by using internal resources but, where necessary, loans will be sanctioned in the ordinary way for periods of 20 and 30 years respectively for roads and sewers provided they are raised from the Public Works Loan Board. Special arrangements will be made to enable local authorities who do not normally borrow from the Public Works Loan Board to do so for this purpose. It is assumed that where arrangements are made for grouping, each local authority in the group will raise its loan separately and recoup the leading local authority. Where the work is carried out by the Ministry of Works as agent of a local authority a special arrangement will be necessary.

3. It will be economical to apply arrangements of this kind only to sites of five acres and above. As regards sites under five acres it will be open to local authorities to apply the procedure of Circular 2871 and to enter into contracts with local contractors in so far as immobile labour is available.

4. Further details on technical points in connection with the scheme are as follows :—

Work to be Done

- (a) Construct roads and kerbs in accordance to a specification suitable for the district; footpaths and verges should not be made up but excavation to formation levels should be to the full width between curtilages.
- (b) Construct soil and storm water sewers with branches for house connections.
- (c) Make arrangements with the local water, gas and electricity undertakers on the lines indicated in the Circular.

Labour Allocation

5. Labour will be allocated. This will involve W.B.A., with direction of mobile labour, and application of the Uniformity Agreement and E.W.O.

Information Required from Local Authorities

6. The information to be supplied in duplicate to the Senior Regional Officer will be :—

- (i) Layout plan of roads with levels and cross and longitudinal sections.
- (ii) Plans and details of sewers and drains, and information as to special requirements.
- (iii) All information possible as to the nature of the subsoil, the level of rock (if any), and other technical data to enable contractors to appreciate the work involved before tendering.

Note: It will facilitate arrangements and reduce cost where local authorities agree, as is now common practice, for groups of houses to be connected to one branch drain. In such cases the detailed siting of buildings will not be so essential as where separate connections are proposed. Combined sewerage should be adopted where feasible.

Competitive Tenders and Form of Contract

7. It will be important that the authority responsible for the group work in an area should obtain and provide information as to the situation of sites already available and the approximate situation of any further sites which may become available for inclusion in the scheme without interrupting continuity of work. For the purpose of obtaining competitive tenders from contractors experienced in and suitable for this work a bill of quantities will be prepared representing a site typical of the area. The bill will be priced by the authority and contractors will prepare tenders on the basis of a percentage on or off these prices. Lowest suitable tenderers will be given all work in the area, subject to the work generally being properly spread over the available contractors. Tenders will cover all costs, including costs of a 60 hour week (without Sunday working), Uniformity Agreement, welfare, E.W.O., watching and lighting, pumping to keep excavations free from water, holidays with pay, insurance, preliminary items, etc.

Payment for the actual work done on each site should be on measurement at the rates tendered in the bill of quantities for the typical site by the successful contractor.

Responsibility for Contract

8. If in any area local authorities are not able to make such grouping arrangements as outlined in paragraph 1, the Ministry of Works are prepared on the request of the authorities which should be made to the Ministry of Health to be responsible for letting and running group contracts. In this as in all cases local authorities will have full right of access and inspection, as they have in the case of private development, to satisfy themselves that the agreed specification and other requirements are complied with.

All contracts will contain a clause enabling the responsible authority or the Ministry of Works to assign benefit of contract to each local authority concerned so that each authority may control the contract themselves after completion during the maintenance period.

Estimate of Cost

9. The Ministry of Works have prepared a preliminary estimate based on a bill of quantities for a typical site.

The estimated cost on this basis is £3 13s. 7d. per foot run of road.

The main items included in the estimate are :—

1. Excavation and filling to formation level.
2. 3 inches ashes.
3. 7 inches thick concrete road complete (with precast concrete kerbs), average width 18 feet, reinforced only where the ground is doubtful.
4. 6 inches and 9 inches soil sewers.
5. 9 inches average surface water sewer.
6. Manholes at 100 yards centres.
7. Gullies at 150 feet centres.
8. Branches for soil and surface water connections for every six houses.
9. Conduit pipes at road crossing for electric cables.

Preparation of Housing Sites

Name of Local Authority.
 County Borough Council.
 Borough Council.
 Urban District Council.
 Rural District Council.

Sites desired to be included in Scheme

<i>Name</i>	<i>Acreage</i>	<i>Whether already owned by L.A.</i>	<i>Anticipated date by which entry can be obtained</i>	<i>Anticipated date by which particulars of lay-out can be submitted</i>
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Signed

Clerk to Local Authority

Date

[431]

Circular 28/44

*To Housing Authorities,
 County Councils (for information),
 (England).*

MINISTRY OF HEALTH,
 WHITEHALL,
 LONDON, S.W.1.

8th March, 1944.

SIR,

POST WAR HOUSING: PURCHASE OF LAND

I am directed by the Minister of Health to enclose for the information of the Council a copy of a statement made by him in the House of Commons to-day announcing a number of decisions of the Government on housing policy and legislation, and on the measures to be taken to ensure that local authorities can start building houses immediately the war in Europe is over.

I am to draw particular attention to the reference in the statement to the acquisition of land. It will be observed that under the Government decision local authorities are to be able to buy in advance land required for their housing operations under the Government programme. The war-time ban on capital expenditure will be relaxed to enable this to be done and the reference to sites for the first year's housing programme only in Circular 2778 of the 4th March, 1943, will cease to apply.

Care should be taken to ensure that the sites to be bought are suitably sited in themselves and do not prejudice future planning policy. To this end proposals should be referred to the Planning Authority and at the same time to the Regional Planning Officer of the Ministry of Town and Country Planning under the procedure set out in the seventh paragraph of Circular 14/44 of 21st February, 1944.

It is not the intention at the present time to sanction the purchase of the large areas of land required for a long term housing programme. These

suggested purchases must be deferred pending decisions on the major questions of planning which are still under consideration. Local authorities will, however, now be able, without prejudice to these considerations, to acquire as much land as is required for proposals which they are likely to be able to put in hand for meeting urgent needs in the two years after the War.

Applications for consent to borrowing for the purchase of sites should, after agreement with the Planning Authority, be submitted in the usual way.

I am, Sir, etc.

The Clerk to the Authority.

Enclosure to Circular 28/44

STATEMENT MADE BY THE MINISTER OF HEALTH IN THE HOUSE OF COMMONS, 8 MARCH, 1944

With your permission, Mr. Speaker, and with the leave of the House, I should like to make a short statement on the Government's housing policy for the first two years after the end of war in Europe.

During that period our primary task must be to meet the urgent needs of those who have no homes of their own. These could not be fully met or met with sufficient speed by building new houses of permanent construction. In addition, we shall have to undertake a substantial amount of emergency housing both by adapting existing buildings and by providing temporary accommodation of various kinds.

My noble Friend the Minister of Works has already outlined the preparations that are being made in the sphere of temporary housing. The object of this statement is to indicate the lines on which the Government propose to proceed, simultaneously, with the construction of new houses of a permanent type. Both types, the permanent and the temporary, are complementary parts of a single Government policy for providing the largest possible number of new homes during these first two years.

To enable local authorities to make an early start, as soon as conditions permit, with the construction of new houses of a permanent type, the Government have decided to introduce temporary legislation extending the present scope of housing subsidies so as to include dwellings built to meet general needs. Local authorities will be enabled to buy in advance land required for these housing operations, using compulsory powers if necessary. And Parliament will be asked to empower the responsible Ministers, as after the last war, to confirm compulsory purchase orders for the acquisition of land for housing purposes without holding an inquiry. My Rt. Hon. Friend the Secretary of State for Scotland and I are informing local authorities of these decisions to-day.

We hope to be able to introduce the necessary legislation shortly after the Easter recess.

Meanwhile I am to-day inviting representatives of the associations of local authorities and of the London County Council to meet me at an early date to discuss the arrangements for housing subsidies. The local authorities will be invited to proceed on the basis that all preliminary preparations should be made to ensure that, if building resources should permit, 100,000 houses can be completed or under construction by the close of the first year after the end of hostilities in Europe and a further 200,000 by the close of the second year. These 300,000 houses will be in addition to those built under the programme of temporary construction.

My Rt. Hon. Friend the Secretary of State for Scotland has asked me to make it clear that the decisions and the programme to which I have referred

cover Scotland as well as England and Wales, and that he is taking similar action to give effect to them.

This statement has necessarily been brief. There are still many important decisions to be taken, including the part to be played by private enterprise. These will, I can assure the House, be taken at the earliest possible moment. The Government considered, however, that in view of the keen interest which is taken in this vital subject the House would wish to be informed of these decisions at the first opportunity. [432]

THE HOUSING ACT (FORM OF ORDERS AND NOTICES) AMENDMENT REGULATIONS, 1944

P. R. & O., 1944

September 2, 1944

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into operation immediately, and in exercise of the powers conferred on him by subsection (1) of section 176 of the Housing Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation forthwith as provisional rules :—

1. These regulations which may be cited as the Housing Act (Form of Orders and Notices) Amendment Regulations, 1944, shall be read as one with the Housing Act (Form of Orders and Notices) Regulations, 1937 (hereinafter referred to as "the principal regulations") as subsequently amended, and shall have effect as from the 3rd day of August, 1944. [433]

2. For the purpose of giving effect to section 2 of the Housing (Temporary Provisions) Act, 1944, which amends the First Schedule to the Housing Act, 1936, Form No. 20 in the schedule to the principal regulations shall be amended by the addition of the following paragraph after the paragraph preceding the schedule to the said Form :—

Where however the order is submitted to the Minister after the 3rd day of August, 1944, and before the expiration of two years from that date, the Housing (Temporary Provisions) Act, 1944, provides that where any objection is made to the order and is not withdrawn, the Minister may, after considering the objection, confirm the order (with or without modification) without causing a public local inquiry to be held. [434]

* * * * *

THE HOUSING (TEMPORARY ACCOMMODATION) REGULATIONS, 1944

P. R. & O., 1944

October 16, 1944

The Minister of Health hereby certifies under section 2 of the Rules Publication Act, 1893, that on account of urgency the following regulations should come into force immediately, and in exercise of the powers conferred on him by subsection (1) of section 176 of the Housing Act, 1936, and of all other powers enabling him in that behalf, hereby makes the following regulations to come into operation immediately as provisional regulations :—

1. These regulations may be cited as the Housing (Temporary Accommodation) Regulations, 1944, and shall come into operation on the date hereof. [435]

2. The Interpretation Act, 1889, applies to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament. [436]

3. The form set out in the Schedule hereto or a form substantially to the life effect shall be the form of notice to be served by a local authority under section 6 of the Housing (Temporary Accommodation) Act, 1944. [437]

SCHEDULE

Notice to owners and occupiers of the making or intention to make an application to the Minister of Health for an authorisation to enter and take possession of land under section 6 (2) (a) of the Housing (Temporary Accommodation) Act, 1944.

Housing Acts 1936 to 1944

To¹ :— { (a) The owner or occupier.
(b) The owner and the occupier.
(c) The owners and any occupiers.

Of² :—

Take notice that the ³

(hereinafter referred to as "the local authority") in pursuance of their powers under section 6 of the Housing (Temporary Accommodation) Act, 1944, [have made]⁴ or [intend to make]⁴ an application to the Minister of Health for an authorisation to enter and take possession for the purposes of Part V of the Housing Act, 1936, of the land described in the Schedule hereto for the erection of structures made available under section 1 of the Housing (Temporary Accommodation) Act, 1944, which lands are delineated and shown coloured on a map marked and sealed with the common seal of the local authority and deposited at the offices of the local authority and may be seen at all reasonable hours. [A copy of the said map is attached hereto.]⁵

Any representation regarding the application for authorisation to enter and take possession of the said land must be made in writing and addressed to the Minister of Health, Whitehall, London, S.W.1, within fourteen days from the date of the service of this notice.

Schedule

(Here insert description of the land.)

Dated this

day of

194 .

Signature of the Clerk of the Local Authority.

NOTE

Section 6 (4) of the Housing (Temporary Accommodation) Act, 1944, provides that where a local authority have taken possession of land pursuant to an authorisation under that section they shall by virtue of that section have power to acquire the land compulsorily as if they had been authorised so to do by an order under section 74 of the Housing Act, 1936, made, submitted and confirmed in accordance with the provisions of the First Schedule thereto, incorporating the enactments required to be incorporated in such an order, with the modifications and adaptations appropriate to such an order, and the local authority shall as soon as may be after taking possession of the land serve notice under section 18 of the Lands Clauses Consolidation Act, 1845, of their intention to take the land, and shall in all respects be liable as if such notice had been given on the date of their entering on the land, except that the power conferred by subsection (2) of section 5 of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw such a notice shall not be exercisable.

Directions for filling up this form

¹ (a) Under section 6 (3) (a) of the Act of 1944 the notice should be addressed to the owner or occupier by name of any of the land in question.

(b) Under section 6 (3) (b) of the Act of 1944 where any premises comprised in the land appear to be separately occupied the notice should be addressed to "the owner and the occupier" of the premises.

(c) Under section 6 (3) (c) of the Act of 1944 where the premises comprised in any part of the land appear to be unoccupied the notice should be addressed to "the owners and any occupiers."

² Description of the land in respect of which the notice is served.

³ Description of the local authority.

⁴ Strike out where inapplicable.

⁵ Strike out where inapplicable. A copy of the map should be attached to the Notice in all cases of service under Section 6 (3) (b) or (c) where the notice is required to be affixed to the premises. [438]

* * * * *

CASES

Landlord and Tenant—Rent restriction—Homeless person placed in possession of vacant house requisitioned by local authority—No tenancy created—No protection under Rent Acts.

The clerk of the respondent council had been authorised by the Minister of Health to requisition empty houses as the agent of the Minister, pursuant to the Defence (General) Regulations, for the purpose of providing accommodation for persons rendered homeless by enemy action. The appellant, being such a person, in March, 1941, was provided with a house which had been left vacant by its owner. Shortly after being put into possession the appellant was informed that he would be required to pay a reasonable rent, but no other terms were ever suggested. The rent was fixed at 16s. 6d. per week and had been paid weekly. In 1944 the owner of the house desired to return and the respondent council brought proceedings to recover possession of the premises. The appellant contended that in the circumstances his occupation was a tenancy and that he was protected by the Rent Acts :—

Held : no tenancy had been created and the appellant was not entitled to the protection of the Acts.—SOUTHGATE BOROUGH COUNCIL v. WATSON, [1944] 1 K. B. 541 ; [1944] 1 All E. R. 603 ; 113 L. J. (K. B.) 337 ; 171 L. T. 26 ; 108 J. P. 207 ; 60 T. L. R. 392 ; 42 L. G. R. 219, C. A. [439]

INFANTS, CHILDREN AND YOUNG PERSONS

STATUTES :—	PAGE	ORDERS, CIRCULARS AND MEMORANDA :—	PAGE
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		Juvenile Courts (Metropolitan Police Court Area) Order, 1944	211

STATUTES

THE GUARDIANSHIP (REFUGEE CHILDREN) ACT, 1944

(7 & 8 Geo. 6, c. 8)

PRELIMINARY NOTE

This Act was passed for the purpose of making provision for the care and guardianship of the considerable number of children who have arrived in this country from abroad without their parents, and to avoid difficulties which had arisen from the fact that the people who have accepted responsibility for their welfare had no legal status as guardians.

The Act (s. 1 (1), *post*) empowers the Secretary of State to appoint a guardian of any person (referred to as "the ward") who is for the time being in England, if it appears to him that :—

- (1) the ward arrived in the United Kingdom after the end of 1936 in consequence of war (whether foreign or civil) or of religious, racial or political persecution ; and
- (2) the ward had not at the time of his arrival attained the age of 16 years ; and
- (3) no parent of the ward is in the United Kingdom ; and
- (4) the ward has not attained the age of 21 years, and, in the case of a female, has never been married.

As to the validity of such appointments, see s. 1 (6), *post*. In England the appointments will be made by the Home Secretary and his duties in this connection are stated in s. 1 (2), *post*. Power to revoke the appointment is conferred by s. 1 (4), *post*, and it terminates in any case on the ward attaining the age of 21 years, or, if a female, marrying under that age ; s. 1 (7), *post*. Under s. 1 (5), *post*, the High Court may remove a guardian appointed under the Act, and appoint another or an additional guardian. As to the effect of the appointment of a guardian, see s. 1 (3), *post*.

The Act itself is not limited in point of time, and guardians appointed under the Act will retain their powers even when the present emergency is at an end, unless further legislation is passed. The effect of s. 3 (3), *post*, however, is that after the expiration of the Emergency Powers (Defence) Act, 1939, guardians may not be appointed in respect of children in respect of whom no such appointments had been made before that date. [440]

An Act to provide for the guardianship of infants who have come to the United Kingdom in consequence of war or persecution. [441]

[1st March, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Appointment of guardian in England or Northern Ireland.—(1) The Secretary of State may appoint a guardian of any person who is for the time being in England if it appears to him—

- (a) that that person (hereinafter referred to as the "ward") arrived in the United Kingdom at any time after the end of the year nineteen hundred and thirty-six in consequence of war (whether foreign or civil) or of religious, racial or political persecution, and had not at the time of his arrival attained the age of sixteen years ;
- (b) that no parent of the ward is in the United Kingdom ; and
- (c) that the ward has not attained the age of twenty-one years and, in the case of a female, has never been married. [442]

(2) The Secretary of State shall take such steps (if any) as appear to him to be practicable to give notice of an appointment under this section to any parent of the ward whose name and address is known to him. [443]

(3) Where a guardian is appointed as aforesaid—

(a) he shall have the same powers and duties as he would have if he had been appointed guardian of the person of the ward by the High Court with express power to authorise such societies or persons as he considers suitable to act on his behalf in respect of such matters as he thinks proper; and

(b) the ward shall be treated, for the purpose of any question arising in respect of the guardianship in Scotland or Northern Ireland, as if he were domiciled in England:

Provided that nothing in this subsection shall be taken to constitute the ward a ward of court. [444]

(4) The Secretary of State may revoke the appointment of a guardian made by him under this section without prejudice to his power to make another appointment, and shall revoke such an appointment on the application of a parent of the ward unless he is satisfied that proper arrangements have not been made by the parent for the care of the ward. [445]

(5) The High Court may remove a guardian appointed by the Secretary of State under this section and appoint another guardian in his place, or may appoint another guardian to act together with a guardian appointed by the Secretary of State under this section. [446]

(6) An appointment by the Secretary of State under this section may be declared void by the High Court on the application of the ward on the ground that at the time of the appointment the ward had attained the age of twenty-one years or, in the case of a female, was or had been married; but save as aforesaid the validity of any such appointment shall not be questioned in any proceedings whatsoever. [447]

(7) The appointment of a guardian of a ward under this section shall terminate on the ward attaining the age of twenty-one years or, in the case of a female, attaining the age of twenty-one years or marrying under that age. [448]

(8) The consent required to the marriage of a ward of whom a guardian has been appointed by the Secretary of State under this section shall be that of the guardian so appointed, and accordingly subsections (1), (2) and (3) of section nine of the Guardianship of Infants Act, 1925, and section ten of the Marriage Act, 1836, shall have effect in relation to the ward as if a reference to the said guardian were substituted for the reference in the said subsection (1) to the persons or person mentioned in the Schedule to the said Act of 1925:

Provided that—

(a) this subsection shall not apply where the guardian appointed by the Secretary of State is acting with a guardian appointed by the High Court; and

(b) where, apart from this subsection, the consent of any person to the marriage of the ward would be required under the said section nine, this subsection shall not apply unless the superintendent registrar or ecclesiastical authority concerned with the marriage is satisfied that, by reason of absence or inaccessibility, the consent of that person cannot be obtained. [449]

(9) This section shall apply to Northern Ireland subject to the following modifications—

(a) for references to England there shall be substituted references to Northern Ireland and for the reference to Northern Ireland there shall be substituted a reference to England;

- (b) for references to the Secretary of State there shall be substituted references to the Minister of Home Affairs for Northern Ireland ;
- (c) references to the High Court shall be construed as references to the High Court in Northern Ireland ;
- (d) the following subsection shall be substituted for subsection (8) :—

“(8) The consent required to the marriage of a ward of whom a guardian has been appointed by the Minister of Home Affairs for Northern Ireland under this section shall be that of the guardian so appointed, and accordingly section nineteen of the Marriages (Ireland) Act, 1844, and the Guardianship of Infants Act, 1886, shall have effect in relation to the ward as if a reference to the said guardian were substituted for the reference in the said section nineteen to the person or persons mentioned in the said section :

Provided that—

- (a) this subsection shall not apply where the guardian appointed by the Minister of Home Affairs is acting with a guardian appointed by the High Court ; and
- (b) where, apart from this subsection, the consent of any person to the marriage of the ward would be required under the said section nineteen and the Guardianship of Infants Act, 1886, this subsection shall not apply unless the superintendent registrar, the registrar of a district or the ecclesiastical authority concerned with the marriage is satisfied that, by reason of absence or inaccessibility, the consent of that person cannot be obtained.” [450]

Effect of section.—See Preliminary Note, *ante*.

Definition of parent.—By s. 3 (2), *post*, “parent” in relation to a ward includes a guardian appointed otherwise than under the present Act, but does not include a person of unsound mind or a person who has been deprived of the custody of the ward by a court of competent jurisdiction.

Powers and duties of guardians.—For the powers and duties of guardians appointed by the High Court of Justice, see 17 Halsbury's Laws (2nd Edn.), pp. 695 *et seq.* It is not the intention of the Home Office to appoint individual guardians for every child, but to appoint suitable persons for suitable groups of children. Accordingly, the guardian under sub-s. (3) of this section is given certain powers of delegating responsibility.

Ward of Court.—For a definition of this term and the powers of the court in relation thereto, see 17 Halsbury's Laws (2nd Edn.), pp. 717 *et seq.*, and the English and Empire Digest, Vol. 28, pp. 235 *et seq.* Despite the proviso to sub-s. (3), there is nothing to prevent an infant in respect of whom a guardian under the Act has been appointed from being made a ward of court in the usual way ; see 17 Halsbury's Laws (2nd Edn.), pp. 717 *et seq.*

Guardianship of Infants Act, 1925, s. 9.—This section deals with the consents required on the marriage of an infant either on the issue of a certificate by a superintendent registrar, or of a licence by an ecclesiastical authority or after declaration of banns. The Schedule to the Act specifies the persons whose consent is required. The effect of sub-s. (8) of this section is that the consent required where a guardian has been appointed under this Act is the consent of that guardian. But if he refuses, application for consent may be made to the court, as provided by s. 9 (1) (b) of the Guardianship of Infants Act, 1925. For this purpose “the court” means the High Court, county courts, and courts of summary jurisdiction.

2. Appointment of tutor in Scotland.—[451]

3. Short title, interpretation and duration.—(1) This Act may be cited as the Guardianship (Refugee Children) Act, 1944. [452]

(2) In this Act the expression “parent”, in relation to a ward or pupil includes a guardian or tutor appointed otherwise than under this Act, but does not include a person of unsound mind or a person who has been deprived of the custody of the ward or pupil by a court of competent jurisdiction. [453]

(3) After the expiration of the Emergency Powers (Defence) Act, 1939, the Secretary of State or Minister of Home Affairs for Northern Ireland shall

not appoint under this Act a guardian of a ward, or a tutor to a pupil, of or to whom no guardian or tutor has previously been so appointed. [454]

Emergency Powers (Defence) Act, 1939.—This Act, which received the Royal Assent on August 24, 1939, was originally for one year's duration only, but has been extended each year under s. 11 (1), thereof.

Duration of Act.—In spite of sub-s. (3) the present Act does not come to an end when the Emergency Powers (Defence) Act, 1939, comes to an end, but no new appointments must be made, i.e. in respect of children regarding whom no earlier appointments had been made.

ORDERS, CIRCULARS AND MEMORANDA

THE CHILDREN AND YOUNG PERSONS (CONTRIBUTIONS BY LOCAL AUTHORITIES) REGULATIONS, 1943

S. R. & O., 1944, No. 10

January 3, 1944

1. In pursuance of the powers conferred upon me by section 90 of the Children and Young Persons Act, 1933, I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, hereby prescribe contributions at the rate of twenty-four shillings and sixpence a week as the contributions to be made by the local authority named in an approved school order to the expenses of the managers of an approved school throughout the time during which the person to whom the order relates is under the care of the said managers and not out on licence or under supervision. [455]

2. These Regulations shall not apply to a local authority named in an approved school order where the managers having under their care the person to whom the order relates are the local authority, whether as local education authority for elementary education or otherwise, or are a joint committee upon which the local authority, whether as local education authority for elementary education or otherwise, are represented. [456]

3. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [457]

4.—(i) These Regulations may be cited as the Children and Young Persons (Contributions by Local Authorities) Regulations, 1944.

(ii) These Regulations shall come into force on the 1st April, 1944.

(iii) The Children and Young Persons (Contributions by Local Authorities) Regulations, 1943, are hereby revoked. [458]

* * * * *

THE JUVENILE COURTS (METROPOLITAN POLICE COURT AREA) ORDER, 1944

S. R. & O., 1944, No. 722/L.33

I, in pursuance of the powers conferred on me by paragraph (1) of Regulation 6 and by paragraph (1) of Regulation 18 of the Defence (Administration of Justice) Regulations, 1940, by this Order direct as follows:—

1. For the words "Southwark Juvenile Court, Southwark County Court, Swan Street, S.E. 1." in the first column of the Schedule to the Juvenile

Courts (Metropolitan Police Court Area) (No. 2) Order, 1942, there shall be substituted the words "Tower Bridge Juvenile Court, Tower Bridge Police Court, Tooley Street, S.E. 1", and for the word "Wednesday" where it first occurs in the third column of the said Schedule there shall be substituted the word "Tuesday". [459]

2. This Order may be cited as the Juvenile Courts (Metropolitan Police Court Area) Order, 1944, and shall come into operation on the eleventh day of July, 1944. [460]

* * * * *

Note as to S. R. & O., 1944, No. 772.—*The purpose of this Order is to provide for the removal to the building known as the Tower Bridge Police Court of the juvenile court held for the divisions of the metropolitan police court area assigned to the Tower Bridge, Greenwich and Woolwich Police Courts and for the holding of the court every Tuesday.*

LAND DRAINAGE

ORDERS, CIRCULARS AND MEMORANDA :—	PAGE	CASES :—	PAGE
Directions, dated October 31, 1944, made by the Minister of Agriculture and Fisheries under Regulations 56 (1A) and 98 of the Defence (General) Regulations, 1939	212	Hobday v. Nicol, [1944] 1 All E. R. 302	212
		Port of London Authority v. Essex Rivers Catchment Board, [1944] 2 All E. R. 507	213

ORDERS, CIRCULARS AND MEMORANDA

DIRECTIONS, DATED OCTOBER 31, 1944, MADE BY THE MINISTER OF AGRICULTURE AND FISHERIES UNDER REGULATIONS 56 (1A) AND 98 OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 1217

October 31, 1944

Whereas the Minister of Agriculture and Fisheries in pursuance of the powers conferred upon him by Regulation 56 (1A) of the Defence (General) Regulations 1939 issued Directions, dated October 28th, 1941, whereby the publication of accounts or reports or other documents relating to the operation of Drainage Undertakings was prohibited.

Now the Minister of Agriculture and Fisheries in pursuance of the powers conferred upon him by Regulation 56 (1A) and Regulation 98 of the Defence (General) Regulations 1939 hereby directs that the said Directions, dated October 28th, 1941, shall be revoked.

This Direction shall come into force on the 1st day of November, 1944. [461]

* * * * *

CASES

Land Drainage—Bye-law—Bye-law prohibiting structure upon bank of river—Row of tanks filled with earth kept in position by own weight—"Structure."

A bye-law made by the Lee Conservancy Board under the Land Drainage Act, 1930, provided that no person should, without the consent in writing of

the Board, construct any building, fence, post, pylon, wall or structure on the bank of the main river. The respondent placed a number of tanks filled with earth or hard-core in a row along the bank of the river, in some places in two tiers. The tanks were kept in position solely by their own weight. It was contended that this row of tanks was not a "structure" within the meaning of the bye-law :—

Held : the tanks so placed were a "structure" within the meaning of the bye-law.—*HOBDAY v. NICOL*, [1944] 1 All E. R. 302 ; 113 L. J. (K. B.) 264 ; 42 L. G. R. 103, D. C. [462]

Sewers and Drains—Land drainage—Drainage rates—Annual value of premises for purposes of drainage rates determined by drainage board—Whether board required to make fresh valuation in each year—Land Drainage Act, 1930 (c. 44), ss. 24, 26, 29.

By virtue of the Land Drainage Act, 1930, drainage rates were payable by the respondents to the appellants in respect of certain properties, the annual value of which, since there was no Sched. A assessment of them was to be determined, for the purposes of drainage rates, by the appellants. It was contended on behalf of the respondents that, by virtue of s. 24 (4) of the Act, the appellants were under an antecedent duty on every occasion when they were about to make a rate to make a fresh valuation of all lands not assessed to Sched. A, and that unless each such rate was founded on a fresh determination of the annual value of the premises in question it was a nullity :—

Held : upon the true construction of the Act, in the absence of circumstances showing that a case had arisen on the merits for a fresh consideration of the annual value, there was no express direction to the board to make a fresh determination in each year of the annual value of land not assessed under Sched. A, and that it would be wrong to imply such a direction.

Decision of Divisional Court ([1944], 1 All E. R. 727) *reversed*.—*PORT OF LONDON AUTHORITY v. ESSEX RIVERS CATCHMENT BOARD*, [1945] K. B. 101 ; [1944] 2 All E. R. 507 ; 171 L. T. 359 ; 61 T. L. R. 51, C. A. [463]

MATERNITY AND CHILD WELFARE

ORDERS, CIRCULARS AND MEMORANDA :—

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 68E TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 1313

November 23, 1944

After Regulation 68D of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

“DOMESTIC HELP

68E.—(1) Any authority which is a welfare authority for the purposes of Part VII of the Public Health Act, 1936, or Part XII of the Public Health

(London) Act, 1936, may, subject to the approval of the Ministry of Health, make arrangements for the provision of domestic help to households where the provision of such help appears to be necessary, and may, if it appears necessary or desirable so to do, itself employ women to provide such help.

(2) The enactments relating to public health and local government shall have effect as if the powers conferred by this Regulation on any authority were part of its powers as a welfare authority :—

Provided that—

- (a) matters relating to the exercise of the powers conferred by this Regulation shall only stand referred to the maternity and child welfare committee of the authority to such extent as the authority may determine ; and
- (b) for the purposes of section eighty-five of the Local Government Act, 1933, and section fifty-nine of the London Government Act, 1939 (which relate to the appointment of committees), the purposes of this Regulation shall not be deemed to be purposes for which the authority is required to appoint a committee by any enactment other than those sections respectively ; and
- (c) a county council may, with the concurrence of the council of the county district, delegate to the council of a county district situate wholly or in part within the county, with or without restrictions or conditions as it thinks fit, any of its powers under this Regulation, and where powers are so delegated to the council of a county district the council of the county district, in the exercise of those powers, shall act as agent for the county council.

(3) This Regulation shall, in its application to Scotland, have effect subject to the following modifications :—

- (a) for any reference to the Minister of Health there shall be substituted a reference to the Secretary of State ;
- (b) for the authorities mentioned in paragraph (1) the following authorities shall be substituted—
 - (i) in a large burgh within the meaning of the Local Government (Scotland) Act, 1929, the town council ;
 - (ii) in counties combined for the purposes mentioned in sub-section (7) of section ten of the last mentioned Act, the joint county council ; and
 - (iii) in any other county the county council ;
- (c) in sub-paragraph (b) of this paragraph the expression ‘ county ’ means a county inclusive of any small burgh within the meaning of the said Act situated in the county ;
- (d) paragraph (2) shall not apply ”. [464]

* * * * *

Circular 20/44

*Welfare Authorities (England)
and the London County Council.*

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.
22nd March, 1944.

SIR,

Care of Premature Infants

I am directed by the Minister of Health to state that he recently requested his Advisory Committee on the Welfare of Mothers and Young Children to look into the question of the care of the premature infant, in view of the

important bearing of this matter on the problem of neo-natal mortality. The Committee referred the question to their Medical and Professional Sub-Committee whose report has been adopted by the Advisory Committee.

The Minister has accepted the recommendations of the Committee. A number of them involve questions of staff and accommodation with which the Minister recognises that it will not be possible for Welfare Authorities to deal adequately at the present time, but he thinks it desirable to bring the recommendations to their notice in order that they may take such action as is practicable under present conditions and bear the outstanding points in mind in considering possible future developments of their services :—

(1) The provision of more accurate information is a necessary preliminary to action. The Minister suggests that information as to weight at birth should be obtained when this is $5\frac{1}{2}$ lbs. or less and that space should be provided for this purpose on the notification of birth cards. [465]

(2) When the mother and infant are kept at home the Committee attach importance to—

- (a) a separate bedroom for the mother and infant ;
- (b) the provision of adequate and suitable equipment in the home.

Where required, special equipment for each infant should be lent by the Welfare Authority and should include draught proof cots with detachable linings, warm and suitable clothing, hot water bottles (stone or reliable rubber), electric blanket pads, special feeding bottles, thermometer and mucus catheters ;

- (c) a supply of expressed breast milk where this is necessary ;
- (d) the services of a paediatrician ;
- (e) the giving of particular attention to the babies by midwives or health visitors, preferably with special training and experience with premature infants ;
- (f) the services of a home help.

Particular attention will no doubt be given to such cases in the provision which the Authority are already making in this way, so far as it is possible under war-time conditions. [466]

(3) The Committee are of opinion that some selected cases will require institutional care, and special care appropriate to such cases will be needed for those born in maternity hospitals and other units.

They recommend that in such cases—

- (a) provision for premature babies should include small wards with or without cubicles and a temperature varying from “high” to “cooling off”, i.e., 75° to 80° F. and 70° to 75° F. respectively. It is important that the humidity of the atmosphere in these wards should be artificially increased and carefully controlled, since premature infants require a relatively humid atmosphere. There should be isolation rooms and accommodation for nursing mothers, milk kitchen, ward kitchen, laundry facilities and adequate sanitary annexes for patients and staff. The walls should be painted and floors made of suitable material which can be treated by dust reducing methods ;
- (b) the number of cots required for premature infants should be based on the number of maternity beds for the area and 10 cots might be allocated for every 100 maternity beds. This provision would allow of the reception of premature infants born in the maternity units as well as those admitted from the district and also for certain other weakly infants for whom this type of provision is desirable ;

- (c) there is a need for a highly skilled nursing staff on a numerical basis of 1 nurse to 1½ infants. The Minister realises that this ratio is impracticable at the present time. In a premature infant unit of say 20 cots six of the nurses should be permanent staff who should be state registered general or children's nurses, and have had special training with premature infants. This arrangement would avoid changes of senior staff which are detrimental to the continuity of the care of these infants. The remainder of the nursing staff should consist of nurses trained in children's diseases, pupil midwives and nurses undergoing general training;
- (d) a paediatrician should be attached to all maternity units and his services should also be available in the case of the special units for premature infants.
- (e) although it is impossible to provide new and specially designed institutional accommodation at the present time, the matter should be considered with a view to action after the war, but existing institutional facilities might now be reviewed. In some cases it should be possible to improve or adapt existing accommodation for these infants. [467]

(4) Some special form of transport is required for the conveyance of the children taken to hospital and for this purpose the Committee recommend the use of an ambulance or car equipped with a supply of oxygen, a heated basket or other carrier, and with a nurse in attendance. [468]

(5) The closest liaison should be maintained between the hospital and the Welfare Authority in order that the appropriate officer should follow up immediately the infant discharged from hospital to its own home. [469]

The Minister requests that the Authority will take these recommendations into consideration and take such action as is practicable to give effect to them.

A separate copy of this Circular is being sent to the Medical Officer of Health.

I am, Sir, etc.

The Clerk of the Council.

The Town Clerk.

Circular 179/44

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.

14th December, 1944.

SIR,

DOMESTIC HELP

1. I am directed by the Minister of Health to say that the Government are concerned with the position of persons sick or infirm (whether through old age or otherwise) who are unable to obtain domestic help of which, under present conditions, they are peculiarly in need. Further, many of the persons most in need of such help will be unable to pay the current rates for this work. [470]

2. The Minister of Labour and National Service, with whom the Minister has been in consultation in this matter, will encourage suitable persons to undertake this work, but the supply of such labour is not likely to meet all requirements. It is important therefore that such help as can be provided

should be allocated to the best advantage and the Ministers have decided to ask local authorities to assist in this task both because of their close knowledge of local conditions and because many of the questions to be considered in allocating domestic help are similar to those arising in the discharge of the health functions of local authorities. [471]

3. Since it is not clear that the existing powers of local authorities extend to the provision of domestic help (except for mothers and young children, under maternity and child welfare powers) a Defence Regulation, of which a copy is enclosed, has been made, conferring the requisite authority. [472]

4. The reasonable expenses incurred by authorities in work done under the powers so conferred will be reimbursed by the Ministry of Health, subject to examination of the relevant accounts by the District Auditors, and the Ministry of Labour and National Service will consider requests from local authorities for additional staff required and will give such requests high priority.

The principles set out in Home Security Circular No. 78/1944 (of which a copy was sent to you with Circular 144/44 of the 20th October, 1944, from this office) should be followed in claiming reimbursement. Subject to what is there said, additional clerical expenses necessary for the proper organisation of the scheme and reasonable expenditure on supervision will rank for reimbursement. It is recognised that a number of local authorities will not be in a position to undertake additional work without some reinforcement of their staffs, whether clerical or supervisory, and that the success of any work undertaken will greatly depend upon whether suitable women are available. As this scheme, at this stage at least, is experimental it will be necessary that returns should be kept showing as simply as possible the staff employed for domestic help, the amount of help provided and the amount recovered from households that are helped. [473]

5. Generally the need for this new service will be greater in urban than in rural areas and it is not suggested that an organised service should be established in the latter. If the authority of a rural area considers that such special circumstances exist they should in the first place be brought to the notice of the Minister. [474]

6. If an authority is satisfied that there is in their area or in any part of it, a need for a service of domestic helps, they should (subject in rural areas to what is said in the preceding paragraph) consult with the Local Officer of the Ministry of Labour and National Service and, if it is reasonably clear that enough domestic helpers (whole-time or part-time) will be forthcoming having regard to the claims of the other services mentioned in paragraph 12 below, to give help to the more serious cases (at least) of hardship, the Ministers would be grateful if the authority would undertake the organisation of a service to this end. [475]

7. Since part of the need is to provide domestic help for persons in the classes referred to in paragraph 1, above, who cannot afford to pay the prevailing rates for such help, it will ordinarily be the basis of the scheme that the authority should themselves employ the helpers, should allocate them to the household where help is most needed and should recover all or part of the cost from the household in so far as the resources of the household permit. The scale used for their recovery should normally be that adopted for the recovery of all or part of the cost of Home Helps (see Circular 2729) and, in all cases where it is practicable, any amount payable by the household should be assessed and recovered in advance. [476]

8. The rates paid by the authority to the persons that it employs as helpers should be reasonable rates, in the light of those current for similar work in the district and of the rates paid to Home Helps under any scheme in operation in the district. They should in any case not be less than the Hetherington scale or than the rate agreed locally for domestic help by joint voluntary agreement between recognised representatives of employers and workers, whichever may be appropriate. [477]

9. The amount of help required in different households may vary widely. Elderly people, for example, may need only one or two hours help a day, in shopping or in the heavier part of house-cleaning. Households seriously affected by sickness may for a period require whole-time help. Correspondingly, some of those available to give help may be able to give their whole time to the work, but it is probable that a large proportion will be able to undertake part-time work only. Ordinarily the persons employed will fall into one of the three classes :—

(a) whole time, (b) regular part-time, employed for a stated number of hours per week, and (c) women to be called on in emergency, who would be paid on an hourly basis.

The Minister does not consider that the payment of a retaining fee should be necessary.

If domestic helpers under this scheme are employed in households where there is infectious disease, they should work under instructions from the Medical Officer of Health. [478]

10. The principal work to be done by the authority under the scheme will be :—

- (i) to appoint, and maintain a register of, domestic helpers available for work at any time, and to arrange for their payment.
- (ii) to determine which are the most urgent of the applicants for help known to them.
- (iii) to assess what part of the cost of the help provided should be recovered from each household, and to secure its payment.

Authorities will already be familiar with the principles involved in heads (i) and (iii). As regards (ii) it is not possible to define in detail the relative priority to be given to different types of cases, this will have to be decided by the authority on the advice of their health visitors, district nursing service and similar workers.

Authorities should deal with maternity cases desiring a Home Help under their existing Maternity and Child Welfare powers and not under the new powers.

The types of case to which in the Minister's view attention should be given may be illustrated by the following examples.

- (a) where the housewife falls sick or must have an operation.
- (b) where the wife is suddenly called away to see her husband in hospital and arrangements have to be made to look after the children.
- (c) with elderly people who are infirm, or one of whom suddenly falls ill.
- (d) where several members are ill at the same time, e.g. during an influenza epidemic. [479]

11. The co-operation of any district nursing association and of Women's Voluntary Services for Civil Defence, or any other voluntary organisation of good standing, should be sought in order that they may bring cases of need to the notice of the appropriate officer of the authority. The general practitioners working in the area should be informed of the establishment of the service. National publicity will be undertaken asking for volunteers and it

is hoped that authorities will be ready to employ such helpers as present themselves and are found suitable. It is feared that the supply of helpers will in many areas, fall short of the demand and therefore no promise can be made that all demands will be met. [480]

12. The authority, in discussing with the Local Officer of the Ministry of Labour and National Service what domestic helpers are likely to be available for this work, will of course bear in mind the claims on any domestic workers available, of their hospitals and other institutions and of any Home Helps Scheme established in their area. [481]

13. The authority will note that the Order permits the delegation of the powers of a County Council which is a welfare authority to a County District Council which is not a welfare authority. It is a matter for local decision in each case whether such powers should be delegated. The object to be secured will be the effective determination of the cases to be helped and the effective supervision of the work done. [482]

14. The Board of Trade have agreed to the issue of overalls to whole-time Home Helps and, where the extended scheme is in operation, to whole-time domestic helpers as described in this circular. The helper will only surrender three coupons a year and this concession is given on the understanding that the welfare authority concerned will be prepared to provide the overalls and collect the necessary coupons. The overalls will remain the property of the welfare authority and be returnable if the helper leaves her employment. The Board of Trade make the proviso that no helper should have overalls to the value of more than 10 coupons in any one year. [483]

15. The approval required by the Regulation to schemes prepared by Local Authorities is given by this Circular to schemes complying with the principles set out above. [484]

16. An additional copy of this Circular is enclosed for the use of the Financial Officer of the Authority and a copy has been sent direct to the Medical Officer of Health. [485]

I am, Sir, etc.

The Clerk to the Council,

or

The Town Clerk.

MIDWIVES

ORDERS, CIRCULARS AND MEMORANDA :—

Defence (General) Regulations, 1939, Regulation 60q

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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL ADDING REGULATION 60q TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 324

March 24, 1944

After Regulation 60p of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

“ 60q. In computing, for the purposes of subsection (1) of section three of the Midwives Act, 1926, the period which is to elapse between successive publications by the Central Midwives Board of the part of the roll of midwives

containing such names of persons entitled to be, on the roll as have not been supplied to the Board by local supervising authorities in accordance with the provisions of section eight of the Midwives Act, 1902, no account shall be taken of any calendar year falling wholly or partly within the period during which this Regulation is in force." [486]

Note as to S. R. & O., 1944, No. 324.—*This Regulation postpones the publication of the second part of the roll of midwives (non-practising midwives).*

* * * * *

MENTAL HOSPITALS

See PERSONS OF UNSOUND MIND.

MILK AND DAIRIES

See FOOD AND DRUGS.

MOTOR VEHICLES

See ROAD TRAFFIC.

NATIONAL HEALTH AND UNEMPLOYMENT INSURANCE

STATUTES :—

Ministry of National Insurance Act, 1944	- - - - -	PAGE 220
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STATUTES

THE MINISTRY OF NATIONAL INSURANCE ACT, 1944

(7 & 8 Geo. 6, c. 46)

PRELIMINARY NOTE

This Act is the first step in the implementation of the proposals for a comprehensive scheme for social insurance and industrial injury insurance contained in the White Paper on Social Insurance, Parts I and II (Cmds. 6550 and 6551). It does no more, however, than provide for the appointment of a Minister of National Insurance and the transfer to him of existing powers. This transfer involves no disturbance of the existing arrangements for payment of benefit which will continue until the new scheme comes into operation.

S. 1 of the Act confers power to appoint a Minister of National Insurance and broadly describes the functions to be transferred to him. Ss. 2 to 5 provide in common form for the oaths to be taken by the new Minister, his salary and that of his parliamentary secretary, the appointment and remuneration of other staff, the capacity of the Minister and his parliamentary secretary to sit in the House of Commons, and the constitution of the Minister as a corporation sole with a common seal.

S. 6, the operative section, contains in sub-s. (1) a list of functions (by reference to the enactments which govern their exercise), any of which may be transferred to the new Minister. These are functions relating to national health insurance (other than functions relating to the administration of medical benefit), old age, widows', orphans', contributory and supplementary pensions, unemployment insurance (other than functions relating to training courses and the promotion of employment), unemployment assistance and workmen's compensation. The transfer of functions is to be effected by Orders in Council to be made from time to time and to take effect from the dates respectively specified in such Orders. Sub-ss. (2) to (5) authorise the making of Orders in Council dealing with a wide range of ancillary and consequential matters, including the modification of enactments, subject to the Parliamentary control reserved by sub-s. (7) and (8). [487]

An Act to establish a Ministry of National Insurance and for purposes connected therewith. [488] [17th November, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Appointment and functions of Minister of National Insurance.—It shall be lawful for His Majesty to appoint a Minister of National Insurance, and there shall be transferred to that Minister, subject to and in accordance with the provisions of this Act,—

- (a) the functions of the Minister of Health and of the Secretary of State with respect to national health insurance, old age pensions, widows', orphans' and old age contributory pensions and supplementary persons ;
- (b) the functions of the Minister of Labour and National Service with respect to unemployment insurance and unemployment assistance ; and
- (c) the functions of the Secretary of State with respect to workmen's compensation. [489]

Minister of National Insurance.—The Rt. Hon. Sir William Jowitt, K.C., M.P., was appointed the first Minister under the Act on November 17, 1944, the date when the Act received the Royal Assent.

There shall be transferred.—In spite of the express direction here given, s. 6, *post*, which lists the powers and duties which may be transferred by reference to the statutes which created them, enables them to be transferred by Orders in Council made and taking effect at different dates. The transfer of particular functions may, therefore, be postponed indefinitely.

2. Oath of allegiance and official oath.—The Minister of National Insurance (hereinafter referred to as "the Minister") shall take the oath of allegiance and the official oath, and the Promissory Oaths Act, 1868, shall have effect as if the name of the Minister were included in the first Part of the Schedule to that Act. [490]

Promissory Oaths Act, 1868.—This Act prescribes the form of official oath and oath of allegiance which are required to be taken by each of the officers named in the First Part of the Schedule to the Act as soon as possible after acceptance of office.

3. Remuneration, appointment of officers, expenses, etc.—(1) There shall be paid out of moneys provided by Parliament—

- (a) to the Minister, an annual salary not exceeding five thousand pounds ;
- (b) to a parliamentary secretary appointed by the Minister, an annual salary not exceeding fifteen hundred pounds. [491]

(2) For the purpose of section six of the Ministers of the Crown Act, 1937 (which makes provision against duplicate salaries) any such salary shall be deemed to be a salary payable under that Act. [492]

(3) The Minister may appoint such other secretaries and such officers and servants as he may with the consent of the Treasury determine and there shall be paid to the secretaries, officers and servants so appointed such salaries or remuneration as the Treasury may determine. [493]

(4) The expenses of the Minister, including any salaries or remuneration payable under the last foregoing subsection, shall be paid out of moneys provided by Parliament, save in so far as those expenses are to be paid in some other manner by virtue of any enactment applied to the Minister under the following provisions of this Act. [494]

Parliamentary Secretary.—The reference to “a” parliamentary secretary makes it clear the Minister has power only to appoint one such secretary to hold office at any time.

4. Capacity to sit in House of Commons.—Neither the Minister, nor the parliamentary secretary appointed by the Minister, shall, by reason of his office as such, be incapable of being elected as a member of the Commons House of Parliament or of sitting or voting as such a member. [495]

Effect of section.—This section excludes the operation of the Succession to the Crown Act, 1707, s. 24, which makes it illegal for any person appointed to an office of profit under the Crown created after October 25, 1705, to sit or vote in the House of Commons.

5. Seal, style and acts of Minister.—(1) The Minister shall for all purposes be a corporation sole, and shall have an official seal which shall be authenticated by the signature of the Minister or of a secretary of the Ministry or of any person authorised by the Minister to act in that behalf. [496]

(2) The seal of the Minister shall be officially and judicially noticed, and every document purporting to be an instrument made or issued by the Minister, and to be sealed with the seal of the Minister authenticated in the manner provided by this section or to be signed by a secretary of the Ministry or any person authorised as aforesaid, shall be received in evidence and be deemed to be so made or issued without further proof, unless the contrary is shown. [497]

(3) A certificate signed by the Minister that any instrument purporting to be made or issued by him was so made or issued shall be conclusive evidence of that fact. [498]

(4) The Documentary Evidence Act, 1868, shall apply to the Minister as if his name were included in the first column of the Schedule to that Act, and as if he or a secretary of the Ministry or any person authorised by him to act on his behalf were mentioned in the second column of that Schedule, and as if the regulations referred to in that Act included any document issued by the Minister. [499]

Documentary Evidence Act, 1868.—This Act, as amended by the Documentary Evidence Act, 1882, facilitates the proof of various legal documents.

6. Transfer of functions by Orders in Council.—(1) The functions to be transferred to the Minister under this Act shall be transferred by such Orders in Council as may from time to time be made by His Majesty for transferring to the Minister, as from such dates as may be specified in the Order,—

- (a) any of the powers conferred or duties imposed on the Minister of Health or Secretary of State by the National Health Insurance Acts, 1936 to 1941, other than powers or duties conferred or imposed under sections thirty-five to forty-three of the National Health Insurance Act, 1936 (which relate to the administration of medical benefit);
- (b) any of the powers conferred or duties imposed on the Minister of Health or Secretary of State by the Old Age Pensions Act, 1936;
- (c) any of the powers conferred or duties imposed on the Minister of Health or Secretary of State by the Widows', Orphans' and Old Age Contributory Pensions Act, 1936 to 1941;

- (d) any of the powers conferred or duties imposed on the Minister of Health or Secretary of State by Part II of the Old Age and Widows' Pensions Act, 1940 ;
- (e) any of the powers conferred or duties imposed on the Minister of Labour and National Service by the Unemployment Insurance Acts, 1935 to 1944, other than powers or duties conferred or imposed under sections seventy-six to seventy-nine of the Unemployment Insurance Act, 1935, (which relate to courses of instruction) or under section eighty-two or sections one hundred to one hundred and two of that Act (which relate to the promotion of employment) ;
- (f) any of the powers conferred or duties imposed on the Minister of Labour and National Service by the Unemployment Assistance Acts, 1934 to 1940 ;
- (g) any of the powers conferred or duties imposed on the Secretary of State by the Workmen's Compensation Acts, 1925 to 1943. [500]

(2) Where any power or duty conferred or imposed by any enactment mentioned in subsection (1) of this section is retained by an existing authority, and it appears to His Majesty in Council that any other power or duty so conferred or imposed should be exercised or discharged in connection with the power or duty retained, His Majesty may by Order in Council provide that that other power or duty shall be exercised or discharged either by the existing authority alone or by both the existing authority and the Minister, whether jointly or severally ; and such provision may be made at any time notwithstanding that that other power or duty has been transferred to the Minister by a previous Order in Council. [501]

(3) His Majesty may also by Order in Council, to such extent as may appear to His Majesty to be necessary or expedient having regard to any transfer effected under the foregoing provisions of this Act—

- (a) provide for the alteration of the constitution and functions of the National Health Insurance Joint Committee, and of any consultative council established under section four of the Ministry of Health Act, 1919, or section five of the Scottish Board of Health Act, 1919, to give advice in connection with matters relating to national health insurance ;
- (b) provide for the transfer to the Minister of any power or duty conferred or imposed on an existing authority by or under any enactment other than those mentioned in subsection (1) of this section, or for the exercise or discharge of any such power or duty by the Minister and the existing authority jointly. [502]

(4) His Majesty may by Order in Council make such incidental consequential and supplemental provisions as appear to His Majesty to be necessary or expedient having regard to any provision included in an Order in Council by virtue of the foregoing provisions of this Act and in particular, but without prejudice to the generality of the foregoing provision, any such Order in Council may—

- (a) repeal, modify or adapt any enactment, Order in Council, order, rule, regulation, scheme, deed, agreement or other instrument relating to an existing authority or the powers and duties thereof ;
- (b) provide for the transfer to a new authority, by virtue of the Order and without more, of any property of an existing authority ;
- (c) provide for treating anything done before the date when the Order takes effect by, to, before or under the authority of an existing authority, or any person appointed by an existing authority, as if it had been done by, to, before or under the authority of a new authority or any person appointed by a new authority, so far as

may be necessary for the carrying on or completion thereof, and for the substitution of a new authority for an existing authority in any contract or legal proceeding made or begun before that date ;

- (d) provide for securing that any order, rule, regulation, scheme, arrangement or requirement made, certificate issued, notice, decision, determination, direction or approval given, or thing done by an existing authority shall continue to have effect to the like extent and subject to the like conditions as if it had been duly made, issued, given or done by a new authority ;
- (e) authorise the Minister to exercise or discharge any power or duty transferred from an existing authority through that authority or other government department or other agency. [503]

(5) The reference in paragraph (a) of the last foregoing subsection to an enactment shall include a reference to an enactment of the Parliament of Northern Ireland, and all other references in that paragraph and in paragraph (d) of that subsection to the instruments and things therein respectively specified shall include references to such instruments and things made, issued, given and done by virtue of an enactment of that Parliament ; but nothing in this Act or in any Order in Council made thereunder shall affect the power of that Parliament to make laws in respect of any matter which would, apart from this Act and any such Order, be within that power. [504]

(6) Any Order in Council made under this Act may be varied or revoked by any subsequent Order in Council made by His Majesty, and any such variation or revocation may be made to take effect as from the date of the Order in Council varied or revoked or any subsequent date. [505]

(7) Every Order in Council made under this Act shall be laid before Parliament as soon as may be after it is made, but, notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, such an Order shall be deemed not to be a statutory rule to which that section applies. [506]

(8) If either House of Parliament within the next twenty-eight days on which the House has sat after such an Order in Council as aforesaid is laid before it, resolves that the Order be annulled, the Order shall thereupon cease to have effect, except as respecting things previously done or omitted to be done, without prejudice, however, to the making of a new order. [507]

(9) In this section—

- (a) the expression “ duties ” includes liabilities and the expression “ powers ” includes rights ;
- (b) the expression “ existing authority ” means an authority from whom powers or duties are or have been transferred by Order in Council made under this Act, and the expression “ new authority ” means an authority to whom powers or duties are or have been transferred by such an Order or, in a case where under such an Order such an authority is to act jointly with an existing authority, both those authorities ;

and references in subsection (1) of this section to any enactment shall be construed as a reference to that enactment as amended by any other enactment. [508]

Effect of section.—This section deals with the transfer of functions hitherto exercised by other Ministers. The transfer is to be effected by a series of Orders in Council which may be made at different times and are to be operative only from the dates respectively named therein. Parliamentary control of the transfers to be effected by each successive Order in Council is ensured by sub-s. (8).

National Health Insurance Acts, 1936 to 1941.—These are the National Health Insurance Act, 1936 ; the National Health Insurance Act (Amendment) Act, 1937 ; the National Health Insurance (Juvenile Contributors and Young Persons) Act, 1937 ; the National Health Insurance (Amendment) Act, 1938 ; Part II of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939, and so much of Part I thereof as

relates to insurance under the Acts of 1936 to 1938; and so much of Part I of the National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941, as relates to insurance under the Acts of 1936 to 1939.

Widows', Orphans' and Old Age Contributory Pensions Acts, 1936 to 1941.—These are the Widows', Orphans' and Old Age Contributory Pensions Act, 1936; the Widows', Orphans' and Old Age Contributory Pensions (Voluntary Contributors) Act, 1937; Part III of the National Health Insurance and Contributory Pensions (Emergency Provisions) Act, 1939, and so much of Part I thereof as relates to insurance under the Acts of 1936 and 1937; Part I of the Old Age and Widows' Pensions Act, 1940; and so much of Part I of the National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941, as relates to insurance under the Acts of 1936 to 1940.

Part II of the Old Age and Widows' Pensions Act, 1940.—This Part relates to supplementary pensions.

Unemployment Insurance Acts, 1935 to 1944.—These are the Unemployment Insurance Act, 1935; the Unemployment Insurance (Agriculture) Act, 1936; the Unemployment Insurance Act, 1940; and the Unemployment Insurance (Increase of Benefit) Act, 1944.

Unemployment Assistance Acts, 1934 to 1940.—These are the Unemployment Assistance Act, 1934; the Unemployment Assistance (Emergency Powers) Act, 1939; and in so far as it amends the 1934 Act, the Unemployment Insurance Act, 1940.

Workmen's Compensation Acts, 1925 to 1943.—These are the Workmen's Compensation Act, 1925; the Workmen's Compensation Act, 1926; the Workmen's Compensation (Silicosis and Asbestosis) Act, 1930; the Workmen's Compensation Act, 1931; Part II of the National Health Insurance, Contributory Pensions and Workmen's Compensation Act, 1941; the Workmen's Compensation Act, 1943, except ss. 2 and 4; and the Workmen's Compensation (Temporary Increases) Act, 1943.

Sub-s. (2).—The effect of this subsection is that when there is a partial transfer of functions under any of the Acts listed in sub-s. (1) any ancillary functions which are still required by a Minister some of whose functions have been transferred shall continue to be exercisable by him.

National Health Insurance Joint Committee.—S. 160 of the National Health Insurance Act, 1936, governs the constitution of this committee which consists of the Minister of Health, the Secretary of State for Scotland and the Minister of Labour for Northern Ireland, and an expert on National Health Insurance in Wales. S. 6 (3) of the present Act will enable the Minister of National Insurance to become a member.

Ministry of Health Act, 1919, s. 4.—This section authorises the establishment of consultative councils for the purpose of advising the Minister of Health on matters affecting or incidental to the health of the people.

Sub-s. (4).—The power to amend enactments by Order in Council conferred by para. (a) will enable consequential verbal alterations to be made in any statutes, some or all of the functions whereunder are transferred to the Minister of National Insurance.

Rules Publication Act, 1893, s. 1.—The effect of excluding the application of this section is to obviate the necessity of giving forty days' notice of intention to make Orders in Council under the present Act.

7. Short title.—This Act may be cited as the Ministry of National Insurance Act, 1944. [509]

NON-PROVIDED SCHOOLS

See SPECIAL EDUCATION VOLUME.

OFFENSIVE TRADES

See REGULATED INDUSTRIES.

OFFICERS OF LOCAL AUTHORITIES

CASES:—	PAGE		PAGE
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CASES

Local Government—Appointment of officer—Appointment of councillor as clerk to council in honorary capacity on his undertaking to resign from council—“Paid office”—Local Government Act, 1933 (c. 51), s. 122.

The office of clerk to the respondent council became vacant and the council resolved to advertise that it was intended to make a war-time appointment at a certain salary. One of the applicants was Jackson, a member of the council, who offered his services in an honorary capacity and stated that he was prepared to resign his position of councillor. At a special meeting of the council a resolution was passed that Councillor Jackson be appointed to the office on the terms set out in his application. It was contended on behalf of the Attorney-General that this amounted to an appointment to a paid office within the meaning of the Local Government Act, 1933, s. 122, and that Jackson was, therefore, disqualified :—

Held : notwithstanding that the councillor in question agreed to act in an honorary capacity, the appointment was an appointment to a paid office within the meaning of the Act, and in the circumstances of this case was void. —A.-G. v. ULVERSTON URBAN DISTRICT COUNCIL, [1944] Ch. 242 ; [1944] 1 All E. R. 475 ; 113 L. J. Ch. 122 ; 170 L. T. 295 ; 108 J. P. 158 ; 60 T. L. R. 256 ; 88 Sol. Jo. 111 ; 42 L. G. R. 167. [510]

Street Traffic—London Passenger Transport Board—Compensation—Worsening of conditions of employment—Opportunity of promotion—Limitation of time—London Passenger Transport Act, 1933 (c. 14), ss. 73, 85 (2)—Limitation Act, 1939 (c. 21), s. 27.

The respondent was employed in the solicitor's department of the London County Council and had attained the maximum remuneration in his grade in 1931. He would not have been entitled to receive any higher rate of remuneration unless he was promoted to a higher grade. On July 1, 1933, he was transferred to the appellants Board. Just previously an opportunity of promotion for the respondent had occurred, but before anything was done he was transferred. It was held on the facts that he had lost an opportunity of promotion worth £150. The arbitrator fixed the date at which he would probably have received promotion as April, 1934. The respondent first wrote to the appellants Board on December 31, 1938, asking for compensation for the worsening of his conditions of employment. There were subsequent letters up to May 10, 1943, after which an arbitration was held. It was contended that the arbitration was out of time under the Limitation Act, 1939, s. 27 :—

Held : (i) though there may be cases where the cause of action in such a case as this arises after the date of transfer, here the opportunity of promotion was open at the date of transfer and that was the date on which the cause of action arose.

(ii) if the first letter of December 31, 1938, was an application for arbitration—a matter which must in this case be referred back to the arbitrator for his finding—then the respondent was in time and entitled to an award.—LAYEN v. LONDON PASSENGER TRANSPORT BOARD, [1944] 1 All E. R. 432. [511]

PERSONS OF UNSOUND MIND

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ORDERS, CIRCULARS AND MEMORANDA

THE MENTAL DEFICIENCY (AMENDMENT) REGULATIONS, 1944

S. R. & O., 1944, No. 395

March 30, 1944.

The Minister of Health in exercise of the powers conferred on him by the Mental Deficiency Acts, 1913 to 1938, and of all other powers enabling him in that behalf, hereby makes the following regulations :—

1. These regulations may be cited as the Mental Deficiency (Amendment) Regulations, 1944. [512]

2. The Mental Deficiency Regulations, 1935, shall have effect as if the following paragraph were substituted for paragraph (1) of Article 100 thereof :—

“(1) (a) The superintendent of a certified institution with the concurrence of two members of the committee of management of the institution :

(b) The superintendent of a certified house, with the concurrence of two of the visitors :

(c) The Board in the case of a state institution ;
may grant to a patient detained therein a licence to be absent from the institution or house for such period and subject to such conditions as to residence and otherwise as may be therein specified :

Provided that—

(i) In the case of an aided patient, other than a patient detained in a state institution, a licence shall not be granted without the consent of the responsible local authority ; and

(ii) In the case of a private patient, other than a patient detained in a state institution, a licence shall not be granted without the consent of the person who made the last payment on account of the patient's maintenance, unless in the opinion of the superintendent and the persons who concur with him in granting the licence there is adequate reason for dispensing with such consent.” [513]

3. The following paragraph shall be substituted for paragraph (5) of Article 100 of the said regulations of 1935 :—

“(5) A licence granted under this Article may at any time be revoked, in the case of a licence granted by the superintendent of a certified institution or a certified house by the Board or by the superintendent who granted it, or by the Board in the case of a licence granted by the Board, and may be renewed by, and with the concurrence and consent of, the like persons as are authorised to grant a licence or are required to concur in and consent to the grant thereof.” [514]

4. After the word "superintendent" in Article 101 of the said regulations of 1935 there shall be inserted the words "of any institution or certified house". [515]

* * * * *

THE MENTAL NURSES (EMPLOYMENT AND OFFENCES) AMENDMENT ORDER, 1944

S. R. & O., 1944, No. 1080

September 13, 1944

The Minister of Health, in pursuance of the powers conferred upon him by regulation 32AB of the Defence (General) Regulations, 1939, and of all other powers enabling him in that behalf, hereby orders as follows :—

1. The Mental Nurses (Employment and Offences) Order, 1941, shall have effect after the 30th day of September, 1944, as if in article 1 thereof (under which, subject as provided in the order, any person employed on or after the date of the order as a nurse in certain mental institutions in which the recognised rates of pay and conditions of service as therein defined, or rates and conditions such that the rates of pay are not in any case less and the conditions of service are not in any respect more onerous than the recognised rates of pay and conditions of service, are paid and observed, is required to continue in such employment until his services are dispensed with in accordance with the provisions of the order) there were substituted—

- (a) for the words "on or after the date of this order" the words "on or after the 1st day of October, 1944,"; and
- (b) for the words from "The expression" to the end of the article the words "The expression 'recognised rates of pay and conditions of service' means rates of pay and conditions of service in accordance with recommendations made from time to time by the Mental Nurses Sub-Committee and accepted by the Minister of Health, and the expression 'Mental Nurses Sub-Committee' means the sub-committee of that name appointed in association with the Nurses Salaries Committee appointed by the said Minister". [516]

2. This Order may be cited as the Mental Nurses (Employment and Offences) Amendment Order, 1944, and the Mental Nurses (Employment and Offences) Order, 1941, and this order may be cited together as the Mental Nurses (Employment and Offences) Order, 1941 and 1944. [517]

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STATUTES

POLICE AND FIREMEN (WAR SERVICE) ACT, 1944

(7 & 8 Geo. 6, c. 22)

PRELIMINARY NOTE

This Act amends various provisions of the Police and Firemen (War Service) Act, 1939, referred to in this Act and Notes as "the principal Act," and provides for certain contingencies which have arisen in the working of that Act.

The object of the principal Act was to confer upon policemen or firemen who joined the armed forces and who were injured or killed, or on the dependants of such men, benefits similar to those which would have been payable if they had been injured or killed while serving as police or firemen. Higher scale pensions are provided by police and fire service pensions schemes for disablement or death as a result of injuries received while on duty as compared with those payable for disablement or death arising through ill-health or other causes. The principal Act enables the appropriate authority, in cases of war casualties, to increase pensions to the amount payable under the higher scales after taking into account any war pension awarded by the Ministry of Pensions.

The present Act deals with four matters :—

- (1) the payment of grants in case of death or injury ;
- (2) medical evidence and appeals ;
- (3) evidence of death ; and
- (4) the suspension of right to retire on pension. [518]

ARRANGEMENT OF SECTIONS

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An Act to amend the Police and Firemen (War Service) Act, 1939, and, in connection therewith, to amend certain other enactments. [519]

[24th May 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Grants in case of death or incapacity.—(1) The following section shall be substituted for section four of the principal Act :—

“ **4.**—(1) If a person to whom section one of this Act applies (being a person who, in order to serve in His Majesty's forces, ceased to serve as a constable) dies either—

- (a) while serving in His Majesty's forces during the period of the present emergency and one year after the end thereof, or, if the Secretary of State on the application of the appropriate authority so directs in his case, such longer period as may be specified in the direction ; or
- (b) in consequence of infirmity of mind or body which prevented him from resuming his service as a constable, whether the infirmity was occasioned while serving in those forces or before he began so to serve ;

the appropriate pension enactment shall apply in relation to him as if he had been serving at the time of his death in the police force to which he belonged immediately before he ceased to serve as a constable, and had died otherwise than from the effects of an injury received in the execution of his duty ; and the appropriate authority, if they think fit,—

- (i) where, by virtue of the foregoing provisions of this subsection, a gratuity is payable to the widow of any such person, may, in lieu of paying her a gratuity, pay to her under and subject to the provisions of the appropriate pension enactment, a pension of such amount as is provided in subsection (5) of this section ;
- (ii) where, by virtue of the said provisions of this subsection, a pension or an allowance is payable to any person, may increase the amount thereof up to such amount as they think fit not exceeding the amount so provided :

Provided that the appropriate authority shall not exercise the powers conferred by paragraphs (i) and (ii) of this subsection, in a case where the deceased died in consequence of infirmity of mind or body which prevented him from resuming his service as a constable but was occasioned before he began to serve in His Majesty's forces, unless they are satisfied that the infirmity was occasioned by a non-accidental injury received by him in the execution of his duty as a constable without his own default.

(2) If a person to whom section one of this Act applies (being a person who, in order to serve in His Majesty's forces, ceased to serve as a fireman) dies either—

- (a) while serving in His Majesty's forces during the period of the present emergency and one year after the end thereof, or, if the Secretary of State on the application of the appropriate authority so directs in his case, such longer period as may be specified in the direction ; or
- (b) in consequence of infirmity of mind or body which prevented him from resuming his service as a fireman, whether the infirmity was occasioned while serving in those forces or before he began so to serve ;

the appropriate authority may, if they think fit, pay—

- (i) a pension to his widow, of an amount not exceeding the amount provided in subsection (5) of this section ;
- (ii) allowances to his children under sixteen years of age until they severally reach the age of sixteen years, of an amount not exceeding the amount so provided ;
- (iii) a gratuity to any relative of his who has been wholly or mainly dependent upon him, of an amount not exceeding the amount which would have been payable to such a relative if the deceased had died while serving in the fire brigade from the effects of an injury received in the execution of his duty without his own default ;

and the provisions of the appropriate pension enactment shall apply to any pension, allowance or gratuity granted under this subsection as they apply to any pension, allowance or gratuity granted under that enactment :

Provided that the appropriate authority shall not exercise the powers conferred by this subsection, in a case where the deceased died in consequence of infirmity of mind or body which prevented him from resuming his service as a fireman but was occasioned before he began to serve in His Majesty's forces, unless they are satisfied that the infirmity was occasioned by an injury received in, or disease resulting from, the execution of his duty as a fireman without his own default.

(3) If a person to whom section one of this Act applies, after ceasing to serve in His Majesty's forces, is prevented, in consequence of infirmity of mind or body (whether occasioned while so serving or before he began so to serve), from resuming his service as a constable or fireman, the appropriate pension enactment shall apply in relation to him as if he—

- (a) had become, while serving as a constable or fireman in the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman, incapacitated for the performance of his duty by infirmity of mind or body otherwise than in consequence of an injury received in the execution of his duty ; and
- (b) had retired on a medical certificate at the expiration of the period (or last period, if more than one) which by virtue of subsection (1) of section two of this Act is treated as a period of approved service in his case ;

and the appropriate authority, if they think fit—

- (i) where, by virtue of the foregoing provisions of this subsection, a gratuity is payable to any such person, may, in lieu of paying him a gratuity, pay to him, under and subject to the provisions of the appropriate pension enactment, a pension of such amount as is provided in subsection (5) of this section ;
- (ii) where by virtue of the said provisions of this subsection a pension is payable to any such person, may increase the amount there up to such amount as they think fit, not exceeding the amount so provided :

Provided that the appropriate authority shall not exercise the powers conferred by paragraphs (i) and (ii) of this subsection, in the case of a person prevented from resuming his service in consequence of infirmity of mind or body occasioned before he began to serve in His Majesty's forces, unless they are satisfied that the infirmity was occasioned, in the case of a constable, by an injury received in the execution of his duty as a constable without his own default, and, in the case of a fireman,

by an injury received in or disease resulting from the execution of his duty as a fireman without his own default.

(4) If a person to whom section one of this Act applies, after ceasing to serve in His Majesty's forces, resumes his service as a constable or fireman, then—

(a) if he dies in consequence of an injury or disease received or contracted while serving in those forces and either is at the time of his death serving as a constable or fireman or in receipt of a pension from the appropriate authority or has retired on account of that injury or disease, the appropriate authority may, if they think fit—

(i) in the case of a constable, exercise the powers conferred by paragraphs (i) and (ii) of subsection (1) of this section as if any gratuity, pension or allowance payable under the appropriate pension enactment in respect of his death were payable by virtue of that subsection ; and

(ii) in the case of a fireman, exercise the powers conferred by paragraphs (i), (ii) and (iii) of subsection (2) of this section ;

(b) if he becomes incapacitated for the performance of his duty in consequence of any such injury or disease and retires on a medical certificate, the appropriate authority may, if they think fit, exercise the powers conferred by paragraphs (i) and (ii) of subsection (3) of this section as if any gratuity or pension payable to him under the appropriate pension enactment were payable by virtue of the said subsection (3).

(5) Subject to the provisions of this subsection, the amount of any pension or allowance payable to any person for any period at the discretion of the appropriate authority by virtue of this section shall not, when aggregated with the amount of any grant which is also payable for that period to that person out of any naval, military or air force fund in pursuance of any royal warrant or other instrument, exceed—

(a) in a case to which subsection (1) or (2) or paragraph (a) of subsection (4) of this section applies, the amount which would have been payable to that person for that period under the appropriate pension enactment if the deceased had died from the effects of a non-accidental injury received in the execution of his duty as a constable or fireman without his own default ; and

(b) in a case to which subsection (3) or paragraph (b) of subsection (4) applies, the amount which would have been payable to that person for that period under the appropriate pension enactment if he had been incapacitated for the performance of his duty as a constable or fireman by infirmity of mind or body occasioned by an injury received in the execution of his duty without his own default :

Provided that—

(i) where by virtue of subsection (1) or paragraph (a) of subsection (4) of this section a pension is paid in lieu of a gratuity to a widow, the pension shall be at a rate not less than thirty pounds a year ; and

(ii) where by virtue of subsection (3) or paragraph (b) of subsection (4) of this section a pension is paid in lieu of a gratuity to a person to whom section one of this Act applies, the amount of the pension shall be at a rate not less than one-twelfth of his annual pay.

(6) Where the grant, the amount whereof for any period is to be aggregated for the purpose of the last foregoing subsection with the amount of a pension or allowance payable to any person for that period, is a gratuity, the amount of the grant for that period shall be taken to be the amount which would be payable for that period under Part I of the Government Annuities Act, 1929, if the gratuity had been laid out at the date when it became payable in the purchase of an annuity dependent on the life of that person.

(7) Where by virtue of any of the foregoing provisions of this section the amount of any pension, allowance or gratuity is to be determined, whether wholly or in part, at the discretion of the appropriate authority, that authority may from time to time revise their determination."

[520]

(2) Any pension, allowance or gratuity granted before the commencement of this Act which could have been lawfully granted if the principal Act had originally been enacted as amended by this section shall be deemed to have been lawfully granted. [521]

(3) After the commencement of this Act the appropriate authority may grant to any person any pension, allowance or gratuity which could have been lawfully granted before the commencement of this Act if the principal Act had originally been enacted as amended by this section, and any such pension or allowance may be granted as from such date as the authority think fit, not being later than the commencement of this Act or earlier than the date from which it could have been so granted :

Provided that where by virtue of this subsection a pension is granted in lieu of a gratuity which has been paid, the appropriate authority may, if and to such extent as they think fit, treat the gratuity as having been paid on account of the pension. [522]

Sub-s. (1). Principal Act.—This means the Police and Firemen (War Service) Act, 1939 (s. 7 (2), *post*).

Constable.—S. 14 of the principal Act defines this term as "a member of a police force within the meaning of the Police Pensions Act, 1921." By s. 30 of the 1921 Act "police force" means a force maintained by one of the police authorities mentioned in the said Schedule (i.e. Schedule III, Part I to the Police Pensions Act, 1921).

Period of the present emergency.—This term is defined by s. 14 of the principal Act as "the period beginning with the first day of September, 1939, and ending with such day as His Majesty may by Order in Council declare to be the date on which the emergency that was the occasion of the passing of this Act came to an end."

One year after the end thereof . . . or such longer period.—In the original s. 4 (1) (a) of the principal Act, the period mentioned was the period of the present emergency.

Appropriate authority.—S. 14 of the principal Act defines this term as :—

- (a) in relation to a person who is serving or has ceased to serve as a constable, the police authority within the meaning of the Police Pensions Act, 1921, for the police force of which he is or was a member ; and
- (b) in relation to a person who is serving or has ceased to serve as a member of the London Fire Brigade, the London County Council ; and
- (c) in relation to any other person who is serving or has ceased to serve as a fireman, the fire authority within the meaning of the Fire Brigades Act, 1938, for the fire brigade of which he is or was a member.

By s. 30 of and Schedule III, Part I to the Police Pensions Act, 1921, the police authority is as regards the City of London the Common Council, for the Metropolitan Police District the Secretary of State (for Home Affairs), for a county the standing joint committee of the quarter sessions, and the county council, for a borough the watch committee, and for the River Tyne within the limits of the Acts relating to the Tyne Improvement Commissioners, the Tyne Improvement Commissioners.

As to the position where there has been an amalgamation of police forces under the Defence (Amalgamation of Police Forces) Regulations, 1942, S. R. & O., 1942, No. 1443, see the provisions of Schedule I thereto for the adaptation of enactments.

By s. 1 (1) of the Fire Brigades Act, 1938, the council of every County borough and of every county district is a "fire authority," except in the administrative county of London where it is the London County Council (*ibid.*, s. 27).

Infirmity of mind and body.—These words replace "wound or disease" occurring in the original s. 4 (1) (b) of the principal Act.

Appropriate pension enactment.—By s. 14 of the principal Act, this term, "in relation to a person who has ceased to serve as a constable, means the Police Pensions Act, 1921, as amended by any subsequent enactment and, in relation to a person who has ceased to serve as a fireman, means the Fire Brigade Pensions Act, 1925, as amended by any subsequent enactment."

Gratuity . . . payable to the widow.—This is an important amendment providing for the payment of the appropriate pension to the widow of a constable with less than five years' service. Under s. 3 of the Police Pensions Act, 1921, she was, in such circumstances, entitled only to a gratuity. By sub-s. (3) (i) hereof, provision is made for the conversion into a pension, at the discretion of the pension authority, of a gratuity payable to a man, and similarly in the case of a widow, authorising conversion of her gratuity into a pension.

Non-accidental injury.—By s. 33 (3) of the Police Pensions Act, 1921, any injury intentionally inflicted or incurred in the performance of a duty involving special risks, is deemed to be a non-accidental injury. By s. 11 of the principal Act, a war injury within the meaning of the Personal Injuries (Emergency Provisions) Act, 1939, is for the purpose of the 1921 Act to be deemed a non-accidental injury.

Fireman.—By s. 23 (2) of the Fire Brigade Pensions Act, 1925, " 'professional fireman' means any member of a fire brigade maintained by a local authority who is wholly and permanently employed on fire brigade duties, and to whom the Police Pensions Act, 1921, does not apply." This is extended by s. 16 of the Fire Brigades Act, 1938, to include members of fire brigades who have been policemen or professional firemen, but are not at the time of the incapacity or death so employed as to come within that definition by reason of the fact that their employment is not permanent.

Government Annuities Act, 1929.—Part I thereof deals with annuities granted by the National Debt Commissioners.

Sub-s. (2).—This subsection validates grants already made which would have been lawful if the principal Act had originally been enacted as amended by this section.

Sub-s. (3).—This subsection is new and enables grants validated by the present Act to be made retrospectively.

2. Provision for determination of questions and for medical appeals.—

(1) Before granting a pension, allowance or gratuity—

(a) under subsection (1) or (2) of section four of the principal Act, on the ground that a person has died in consequence of infirmity of mind or body which prevented him from resuming his service as a constable or fireman ; or

(b) under subsection (4) of the said section four, on the ground that a person has died, or become incapacitated for the performance of this duty, in consequence of an injury or disease received or contracted while serving in His Majesty's forces ;

the appropriate authority may require such evidence as they think fit that that person has died in consequence of such an infirmity, or has died or become incapacitated in consequence of such an injury or disease, as the case may be. [523]

(2) Before granting, under subsection (3) of the said section four, a pension or gratuity to any person on the ground that he is prevented in consequence of any infirmity from resuming his service as a constable or fireman, the appropriate authority shall be satisfied by the evidence of some duly qualified medical practitioner or practitioners, selected by the authority, that he is so prevented and is likely to continue to be so prevented. [524]

(3) Where an application for the grant of a pension or gratuity under the said subsection (3) is made after the commencement of this Act, or has been made but not determined before the commencement of this Act, the following enactments (which provide for medical examinations and appeals thereon) namely—

(a) subsections (7) and (8) of section twelve of the Police Pensions Act, 1921 (in the case of a constable) ; and

(b) subsections (7) and (8) of section ten of the Fire Brigade Pensions Act, 1925 (in the case of a fireman) ;

shall apply as they apply for the purposes of those sections. [525]

Effect of section.—This section replaces the original s. 4 (6) of the principal Act. It makes provision by sub-ss. (1) and (2) for the necessary evidence to be obtained by the pension authority before making a grant under s. 4 of the principal Act. Sub-s. (3) makes provision for an appeal to a medical referee in certain cases.

S. 4 of the principal Act.—See s. 1, ante.

Constable or fireman.—See notes to s. 1, ante.

Appropriate authority.—See notes to s. 1, ante.

Police Pensions Act, 1921, s. 12 (7) and (8).—S. 12 (7) enables the police authority where a member of the police force or pensioner refuses or fails wilfully or negligently to be medically examined, when so required, to deal with him as if they were satisfied by medical evidence regarding his incapacity or disablement.

S. 12 (8) makes provision for appeals by a person, medically examined by a medical practitioner selected by a police authority, to an independent person nominated by the Secretary of State.

Fire Brigade Pensions Act, 1925, s. 10 (7) and (8).—These subsections make similar provision in relation to a professional fireman as is made by s. 12 (7) and (8) of the Police Pensions Act, 1921, in relation to a member of a police force.

3. Presumption of death of persons serving in forces.—(1) For the purposes of the following provisions of the principal Act, namely—

- (a) subsection (2) of section one (which authorises the supplementation of the pay of persons to whom that section applies while serving in His Majesty's forces);
- (b) subsection (1) of section two (which provides that a period for which any such person serves in His Majesty's forces is to be treated for the purpose of the appropriate pension enactment as a period of approved service); and
- (c) subsections (1) and (2) of section four (which provide for the grant of pensions, allowances and gratuities in respect of the death of any such person while serving in His Majesty's forces);

the question whether any such person has died while serving in His Majesty's forces shall be determined in accordance with the following rules:—

- (i) no such person shall be treated as having died while serving in those forces unless and until the appropriate authority are satisfied that he has been officially reported as dead or as missing;
- (ii) where the appropriate authority are satisfied that any such person has been officially reported as dead, or as missing and presumed dead, he shall be treated as having died while serving in those forces unless and until the authority are satisfied that he has subsequently been officially reported as alive;
- (iii) subject to the last foregoing paragraph, where the appropriate authority are satisfied that any such person has been officially reported as missing, the authority may, if they think fit, treat him as having died while serving in those forces unless and until they are satisfied that he has subsequently been officially reported as alive. [526]

(2) Where the appropriate authority determine in accordance with the foregoing rules that any such person is to be treated as having died, the date of his death shall be taken to be such date as the authority may fix on the evidence available to them; but any sums paid to or in respect of him under subsection (2) of section one of the principal Act for a period after the date of his death as so fixed shall be irrecoverable, and no pension or allowance shall be payable for any period for which such sums are paid. [527]

(3) Where by virtue of the foregoing rules the appropriate authority determine that any person is to be treated as having died and subsequently determine that he is to be treated as being alive—

- (a) any pension, allowance or gratuity paid by virtue of the first determination shall be irrecoverable; and
- (b) no payments shall be made to or in respect of him under subsection (2) of section one of the principal Act for the period between the two determinations in excess of the difference between the aggregate amount of the payments which might have been so made if he had been treated as alive during the said period and the aggregate amount of all pensions, allowances and gratuities paid by virtue of the first determination; and

- (c) the said period shall be treated as a period of approved service in the police force or fire brigade to which he belonged immediately before he ceased to serve as a constable or fireman in order to serve in His Majesty's forces :

Provided that, where a gratuity has been paid to any person as his wife or dependant by virtue of the first determination, the appropriate authority may, if and to such extent as they think fit, treat the gratuity as having been paid on account of any gratuity, pension or allowance that may subsequently become payable in respect of his death to that person. [528]

(4) Where before the commencement of this Act the appropriate authority have determined that a person to whom section one of the principal Act applies is to be treated as having died while serving in His Majesty's forces, nothing in this section shall require them to revise that determination unless and until they are satisfied that he has been officially reported as alive. [529]

(5) In this section the expression "officially reported" means reported (whether before or after the commencement of this Act) by or on behalf of the Admiralty, the Army Council or the Air Council. [530]

Object of section.—This section lays down rules to be observed by pension authorities in determining the date of death of men reported as dead or missing on war service. Provision is made for doubtful cases, and for the revision of the authority's determination when a man is subsequently reported to be alive.

Principal Act.—S. 1 (2) of that Act states : "while a person to whom this section applies is serving during the said period in His Majesty's forces, the appropriate authority may pay to him or to or for the benefit of his wife or other dependants nominated by him, a sum which shall not exceed the pay and allowances he would have received if he had continued to serve as a constable or fireman, after deducting therefrom the amount of his service pay."

Approved service.—Approved service is the service to be reckoned for pension. It may be subject to deductions in respect of sickness, his conduct or neglect of duty (see ss. 7 to 11 of the Police Pensions Act, 1921, and ss. 6 to 9 of the Fire Brigade Pensions Act, 1925).

Appropriate authority.—See notes to s. 1, *ante*.

4. Alteration of certain time limits in principal Act.—(1) A reference to the period of the present emergency and one year after the end thereof, or, if the Secretary of State on the application of the appropriate authority so directs in the case of any person, such longer period as may be specified in the direction, shall be substituted for any reference to the period of the present emergency in the following provisions of the principal Act, namely—

- (a) subsection (2) of section one (which authorises the supplementation of the pay of persons to whom that section applies while serving in His Majesty's forces during the period of the present emergency) ;
- (b) subsection (1) of section two (which extends approved service so as to include service in His Majesty's forces during the period of the present emergency) ;
- (c) section five (which defines the amount of civil pay which a constable or fireman is to be deemed to have received while serving in His Majesty's forces during the period of the present emergency) ;
- (d) subsections (1) and (2) of section six (which substitute certain provisions of the Act for previous enactments in relation to service as a member of a reserve during the period of the present emergency) ;

and accordingly in subsection (2) of the said section two the words from "or within such further time" to the end of the subsection are hereby repealed. [531]

(2) On the application of the appropriate authority, the Secretary of State may, in the case of any person to whom section one of the principal Act applies, direct that the period for which payments may be made to or in respect of him under subsection (3) of that section after he has ceased to serve in His Majesty's forces shall be extended to such longer period as may be specified in the direction. [532]

(3) In section eight of the principal Act (which provides that a constable on probation joining His Majesty forces, and subsequently resuming service as a constable during the period of the present emergency or within two months from the end of that period, shall serve on probation for his unexpired period of probation) the words "during that period or within two months from the end of that period" are hereby repealed. [533]

(4) The period within which a person may, under section nine of the principal Act, resume service as a constable without making a declaration required to be made on accepting office as a constable shall be any period which is to be treated as a period of approved service in his case by virtue of subsection (1) of section two of that Act and two months from the end thereof, instead of the period of the present emergency and two months from the end thereof. [534]

Sub-ss. (1) and (2).—By these two subsections, the operation of certain provisions of the Police and Firemen (War Service) Act, 1939, are extended to one year after the end of the present emergency or such longer period as the Secretary of State may direct on the application of the appropriate authority.

Sub-ss. (3) and (4).—These subsections amend ss. 8 and 9 of the principal Act.

5. Effect of suspension of right to retire on pension.—Section ten of the principal Act (which suspends during the period of the present emergency the right to retire on pension) shall have effect, and be deemed always to have had effect, as if the following subsection were substituted for subsection (2) thereof:—

"(2) Where before the commencement of this Act or during the period of the present emergency written notice has been or is given—

(a) by the chief officer of a police or fire brigade to the appropriate authority: or

(b) by any other constable or fireman to the chief officer of the police force or fire brigade to which he belongs;

of his intention to retire on pension on a date on which he would have been entitled so to retire if the appropriate authority or chief officer consented thereto (hereafter referred to as 'the relevant date'), then if such consent is withheld and he continues to serve in the police force or fire brigade after the relevant date, the following provisions shall have effect:—

- (i) if he retires while serving in a lower rank or at a lower rate of pay than his rank or rate of pay at the relevant date, not having been required to retire as an alternative to dismissal, the amount of his pension shall not be less than it would have been if he had retired on the relevant date;
- (ii) if he is dismissed, or required to retire as an alternative to dismissal, on grounds other than grounds on which his pension, had he been in receipt of a pension, would have been liable to forfeiture, he shall be entitled, as from the expiration of the period of the present emergency, to a pension of the same amount as that to which he would have been entitled if he had retired on the relevant date;
- (iii) if he dies while serving in such lower rank or at such lower rate of pay as aforesaid, or while in receipt of a pension granted to him on his retirement while so serving, the amount of any pension or allowances payable to his widow or children shall not be less than it would have been if he had retired on the relevant date and been granted a pension as from that date;
- (iv) if he dies before the expiration of the period of the present emergency, being entitled as from the expiration of that period to a pension by virtue of paragraph (ii) of this subsection, his widow and children shall be entitled, as from the date of his death, to a pension or

allowances of the same amount as the pension or allowances (if any) to which they would have been entitled if he had retired on the relevant date and been granted a pension as from that date." [535]

Objects of section.—The objects of the amendments made by this section are :—

- (1) to make it clear that a man who has given notice of retirement is, if dismissed or required to retire as an alternative to dismissal, entitled to his pension at the end of the war ;
- (2) to allow a man who has so secured his pension to draw a pension at the secured rate if he retires during the war in a lower rank or at a lower rate of pay than his rank or rate of pay when he secured his pension ;
- (3) to enable the same pension or allowances to be paid to the widow or children in the event of the man's death as would have been payable if he had been allowed to retire when he gave his notice.

Period of the present emergency.—See notes to s. 1, *ante*.

Chief officer of a police force.—This phrase has the same meaning as in the Police Pensions Act, 1921 (see s. 10 (3) of the principal Act) ; see s. 30 of and Schedule III, Part I, to the 1921 Act. As to the position where there has been an amalgamation of police forces under the Defence (Amalgamation of Police Forces) Regulations, 1942, see Schedule I, Part I, thereto.

Chief officer of a fire brigade.—By s. 23 (3) of the Fire Brigade Pensions Act, 1925, "chief officer" includes "fire master," "superintendent," or other such title as is given by the local authority to the chief officer of the fire brigade."

Appropriate authority, constable, firemen.—See notes to s. 1, *ante*.

6. Consequential amendment of enactments.—(1) The power of the Parliament of Northern Ireland under section fifteen of the principal Act to make laws in respect of members of a police force or fire brigade in Northern Ireland for purposes similar to the purposes of that Act shall include power to make such laws for purposes similar to the purposes of this Act. [536]

(2) Notwithstanding anything in subsection (2) of section one of the Emergency Powers (Defence) Act, 1940 (which provides that the enactments which may be applied with modifications by Defence Regulations shall be enactments passed before the commencement of that Act), any such Regulation applying the provisions of the principal Act with modifications to persons engaged in war work as defined by the Regulation, having ceased to serve as constables or firemen in order to be so engaged or in order to serve in His Majesty's forces, and to persons serving in His Majesty's forces having ceased to serve as constables or firemen in order to be so engaged, may apply the provisions of this Act with modifications to such persons. [537]

(3) The power of the Secretary of State under the Fire Services (Emergency Provisions) Act, 1941, as extended by any Defence Regulations (whether made before or after the commencement of this Act) to make regulations for the preservation of the pension rights of persons transferred to or joining the National Fire Service and similar matters shall include power—

- (a) to apply the provisions of this Act (including those provisions as extended by any Defence Regulation made by virtue of the last foregoing subsection), with or without modification, as if the rights and obligations thereby conferred and imposed had been conferred and imposed before the establishment of the National Fire Service ;
- (b) to make provision corresponding to subsection (2) of section ten of the principal Act ;
- (c) to declare what, during the existence of the National Fire Service, is to be treated for the purposes of the principal Act or this Act as resuming service as a fireman ;
- (d) to provide that any such regulations, in so far as they are made by virtue of this subsection, shall have effect from such date before the making thereof but after the passing of the said Act of 1941 as may be specified in the regulations. [538]

(4) As soon as may be after the commencement of this Act, every local authority by whom a scheme was submitted to the Secretary of State under subsection (2) of section seven of the principal Act for securing that firemen mentioned in that subsection should as nearly as may be have the same rights

and be under the same obligations as are conferred or imposed by sections two to six of the principal Act on a fireman to whom the Fire Brigade Pensions Act, 1925, applies—

- (a) shall submit, under paragraph (iii) of the said subsection (2), a further scheme varying the first mentioned scheme in such manner as to secure : or
- (b) in a case where the first mentioned scheme has not been approved before the commencement of this Act, shall re-submit a new scheme for securing ;

that the said firemen shall, as nearly as may be, have the same rights and be under the same obligations as are so conferred or imposed by the said sections two to six as amended by this Act and by subsection (2) of section ten of the principal Act as so amended. [539]

(5) Nothing in subsection (2) of section seven of the principal Act or in the last foregoing subsection shall be taken to require a scheme submitted and approved under those subsections, being a scheme for amending a scheme in operation in Scotland by virtue of paragraph (b) of subsection (1) of section twenty-four of the Fire Brigade Pensions Act, 1925, to contain provisions conferring rights or imposing obligations which are inconsistent with the provisions of the scheme so in operation. [540]

Defence Regulations.—This means Regulations made by Order in Council under the Emergency Powers (Defence) Acts, 1939 and 1940.

Principal Act.—The Police and Firemen (War Service) Act, 1939.

Constables, firemen.—See notes to s. 1, *ante*.

National Fire Service.—For the establishment of the National Fire Service, see the Fire Services (Emergency Provisions) Act, 1941, and the Regulations made under that Act and the Emergency Powers (Defence) Act, 1939.

Local authority.—See the Fire Brigades Act, 1938, ss. 1 and 29.

7. Short title citation, interpretation and extent.—(1) This Act may be cited as the Police and Firemen (War Service) Act, 1944, and the principal Act and this Act may be cited together as the Police and Firemen (War Service) Acts, 1939 and 1944. [541]

(2) In this Act the expression “principal Act” means the Police and Firemen (War Service) Act, 1939. [542]

(3) This Act, save in so far as it amends section fifteen of the principal Act, shall not extend to Northern Ireland. [543]

ORDERS, CIRCULARS AND MEMORANDA

THE POLICE AMALGAMATION (HAMPSHIRE) ORDER, 1944

S. R. & O., 1944, No. 79

January 18, 1944

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows :—

1. Sub-paragraph (1) of paragraph 5 of the Schedule to the Police Amalgamation (Hampshire) Order, 1943, shall be varied by substituting for the Table subjoined to the definition of “appropriate proportion” in that sub-paragraph the Table subjoined hereto :—

<i>Table</i>					<i>Per cent.</i>
Isle of Wight county council	..	..	..	..	15·63
Winchester city council	..	..	..	..	6·24 [544]

2. This Order may be cited as the Police Amalgamation (Hampshire) Order, 1944. [545]

* * * * *

ORDER IN COUNCIL AMENDING THE DEFENCE (AMALGAMATION OF POLICE FORCES) REGULATIONS, 1942

S. R. & O., 1944, No. 186

February 25, 1944

His Majesty, in pursuance of the Emergency Powers (Defence) Acts, 1939 and 1940, and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, that the Defence (Amalgamation of Police Forces) Regulations, 1942, shall be amended as follows :—

1. In paragraph (3) of Regulation one of the said Regulations (which relates to new joint authorities constituted under that Regulation) the words “constituted in accordance with any such order” shall be omitted and at the end of paragraph (b) there shall be inserted the following words :—

“and

(c) the power conferred by sub-paragraph (d) of paragraph (1) of this Regulation to provide for the constitution of the authority shall include power to incorporate it for the purpose of its functions with power to hold land without licence in mortmain”. [546]

2. After paragraph 10 of Part I of the First Schedule to the said Regulations, there shall be inserted the following paragraph :—

“10A. Where the joint authority is a body corporate the following sections of the Local Government Act, 1933, namely—

(a) section one hundred and fifty-seven (which enables local authorities to acquire land by agreement for the purpose of their functions);

(b) sections one hundred and sixty-four to one hundred and sixty-six (which relate to the disposal of land acquired by local authorities); and

(c) section one hundred and seventy-six (which applies the Lands Clauses Acts to purchases of land by local authorities by agreement);

shall apply to the joint authority as if it were a local authority, but with the substitution of references to the Secretary of State for references to the Minister of Health.” [547]

* * * * *

Note as to S. R. & O., 1944, No. 186.—Under Regulation 1 (1) (d) of the Defence (Amalgamation of Police Forces) Regulations, 1942, an order for the amalgamation of police forces may provide for the maintenance of the joint force either by an existing police authority or by a new authority constituted by the order, both kinds of authority being unincorporated bodies. The making of contracts and holding of property by unincorporated bodies frequently gives rise to difficulties. These difficulties do not arise with an existing police authority, because the county council or borough council concerned undertakes responsibility for contracts and property. But the difficulties do arise where the authority is a new authority, and Article 1 of this order gives power to incorporate a new authority. Article 2 of the order gives a new incorporated authority the same power or acquiring land by agreement, and of dealing with land so acquired, as is now possessed by local authorities under the Local Government Act, 1933.

THE POLICE AMALGAMATION (SUSSEX) ORDER, 1944

S. R. & O., 1944, No. 374

March 29, 1944

In pursuance of the powers conferred upon me by the Defence (Amalgamation of Police Forces) Regulations, 1942, I hereby order as follows :—

1. The Sussex police authority constituted under the Police Amalgamation (Sussex) Order, 1943, shall be a body corporate by the name of the Sussex Police Authority with perpetual succession and a common seal and with power to hold land without licence in mortmain. [548]

2. This Order may be cited as the Police Amalgamation (Sussex) Order, 1944. [549]

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THE POLICE REGULATIONS OF MARCH 23, 1944

S. R. & O., 1944, No. 436

March 23, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations * :—

1.—(1) In paragraph (3) of Regulation 20B for the words from “ *if he returns* ” to the end of the paragraph there shall be substituted the words “ *in the case of a member of the force who has been convicted of an offence summarily or on indictment no suspension allowance shall be payable in respect of any period of imprisonment or penal servitude.* ”

(2) At the end of Regulation 20B there shall be added the following paragraph :—

“ (4) *A member of the force who, having been suspended from duty, returns to duty without having been found guilty of any offence shall receive, as from the date of his suspension from duty, his pay and any of the said allowances of which he was in receipt immediately prior to his suspension from duty, less any amount paid to him by way of suspension allowance.* ”

[550]

2. For paragraph (1) and (2) of Regulation 64A there shall be substituted the following paragraphs :—

“ (1) *For the period from 1st November, 1943, to 31st January, 1944, there shall be paid to every member of a police force—*

(a) *for every week in which the annual value of his emoluments does not exceed £850 a supplementary allowance of 19s. ;*

(b) *for every week in which the annual value of his emoluments exceeds £850 but is less than £899 11s. a supplementary allowance of a sum the annual value of which will, together with the annual value of his emoluments, equal the sum of £899 11s.*

* Words altered or added are printed in italics.

(2) *As from 1st February, 1944, there shall be paid to every member of a police force—*

- (a) *for every week in which the annual value of his emoluments does not exceed £1,000 a supplementary allowance of 19s. ;*
- (b) *for every week in which the annual value of his emoluments exceeds £1,000 but is less than £1,049 11s. a supplementary allowance of a sum the annual value of which will, together with the annual value of his emoluments, equal the sum of £1,049 11s.” [551]*

3. In Regulation 67 for the words from “*the 1st December, 1941*” to the end of the Regulation there shall be substituted the words “*1st February, 1944, be paid in lieu a boot allowance at the rate of 2s. weekly.*” [552]

* * * * *

THE POLICE (WOMEN) REGULATIONS OF MARCH 23, 1944

S. R. & O., 1944, No. 437

March 23, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations * :—

1.—(1) In paragraph (3) of Regulation 14B for the words from “*if she returns*” to the end of the paragraph there shall be substituted the words “*in the case of a member of the force who has been convicted of an offence summarily or on indictment no suspension allowance shall be payable in respect of any period of imprisonment or penal servitude.*”

(2) At the end of Regulation 14B there shall be added the following paragraph :—

“ (4) *A member of the force who, having been suspended from duty, returns to duty without having been found guilty of any offence shall receive, as from the date of her suspension from duty, her pay and any of the said allowances of which she was in receipt immediately prior to her suspension from duty, less any amount paid to her by way of suspension allowance.” [553]*

2. For paragraphs (1) and (2) of Regulation 56A there shall be substituted the following paragraphs :—

“ (1) *For the period from 1st November, 1943, to 31st January, 1944, there shall be paid to every woman member of a police force—*

- (a) *for every week in which the annual value of her emoluments does not exceed £850 a supplementary allowance of 15s. 6d. ;*
- (b) *for every week in which the annual value of her emoluments exceeds £850 but is less than £850 9s. a supplementary allowance of a sum the annual value of which will, together with the annual value of her emoluments, equal the sum of £890 9s.*

(2) *As from 1st January, 1944, there shall be paid to every woman member of a police force—*

- (a) *for every week in which the annual value of her emoluments does not exceed £1,000 a supplementary allowance of 15s. 6d. ;*

(b) for every week in which the annual value of her emoluments exceeds £1,000 but is less than £1,040 9s. a supplementary allowance of a sum the annual value of which will, together with the annual value of her emoluments, equal the sum of £1,040 9s." [554]

3. In Regulation 58 for the words from "the 1st December, 1941" to the end of the Regulation there shall be substituted the words "1st February, 1944, be paid in lieu a boot allowance at the rate of 2s. weekly." [555]

* * * * *

THE TEMPORARY CONSTABLES (EMERGENCY) RULES, 1944

S. R. & O., 1944, No. 912

August 3, 1944

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, I hereby make the following Rules amending the Temporary Constables (Emergency) Rules, 1943 :—

1.—(1) In paragraph 7 of Appendix III for the words "the police force to which he belongs or, if he has been dismissed, to which he belonged when dismissed" there shall be substituted the words "a police force".

(2) In paragraph 8 of the said Appendix the words "to which he belongs" shall be omitted. [556]

2. These Rules may be cited as the Temporary Constables (Emergency) Rules, 1944. [557]

* * * * *

Note as to S. R. & O., 1944, No. 912.—The purpose of this Order is to enable a police war reservist, when appealing from a disciplinary award, to choose his representative before a tribunal of inquiry from another police force as well as his own.

THE POLICE (APPEALS) RULES, 1944

S. R. & O., 1944, No. 913

August 3, 1944

In pursuance of the powers conferred upon me by section 4 of the Police (Appeals) Act, 1927, I hereby make the following Rules amending the Police (Appeals) Rules, 1943 :—

1.—(1) In Rule 5 for the words "the police force to which he belongs or, if he has been dismissed or required to resign, to which he belonged when dismissed or required to resign" there shall be substituted the words "a police force".

(2) In Rule 6 the words "referred to in Rule 5" shall be omitted. [558]

2. These Rules may be cited as the Police (Appeals) Rules, 1944. [559]

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THE METROPOLITAN POLICE STAFFS SUPERANNUATION (APPROVED EMPLOYMENT) ORDER, 1944

S. R. & O., 1944, No. 978

August 16, 1944

Whereas under the Metropolitan Police Staff (Superannuation) Acts, 1875 to 1931, both as originally enacted and also as applied by section five of the Metropolitan Police Courts Act, 1897, and as extended by the Superannuation (Various Services) Act, 1938, the Secretary of State is authorised to make by Order regulations respecting the grant to officers to whom those Acts apply of superannuation allowances, compensations, gratuities or other allowances on the like principles and conditions as are for the time being in force with respect to persons in the Civil Service of the State :

Now therefore I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the said Acts and of all other powers enabling me in this behalf, do, by this Order, make the following regulations :—

1. In this Order the expression “ police service ” means service in a pensionable situation, the salary in respect of which is paid out of the Metropolitan Police Fund,

(a) under the Commissioner of Police of the Metropolis or under the Receiver for the Metropolitan Police District, otherwise than as a constable, or

(b) as a member of the staff of the Metropolitan Police Courts,

and “ approved employment ” means employment, whether within or without His Majesty's dominions (not being employment in a public office within the meaning of the Superannuation Act, 1892, service in which qualifies for the grant of a superannuation allowance) which is recognised by the Secretary of State as being employment to which it is expedient that the provisions of this Order should apply. [560]

2. Where any person employed in the police service has (whether before or after the date of this Order) been transferred to approved employment with the consent of the Secretary of State, it shall be lawful, upon his retirement from that employment under conditions which would have entitled him to any superannuation allowance, additional allowance, or gratuity had he continued to be employed in the police service, for the Secretary of State to grant to him such superannuation allowance, additional allowance or gratuity as might have been granted to him if, at the date of transfer, he had retired from the police service on the ground of ill health. [561]

3. Where any person employed in the police service, who has (whether before or after the date of this Order) been transferred to approved employment with the consent of the Secretary of State, retires from that employment on the ground of age before attaining the age of sixty years and is on such retirement qualified for, or entitled to, the benefits of any system of superannuation applicable to the approved employment, the Secretary of State may either—

(a) grant to him, on his attaining the age of sixty years, such superannuation allowance, additional allowance or gratuity as might have been granted to him if, at the date of the transfer, he had retired from the police service on the ground of ill health, or

(b) grant to him within six months after the date of his retirement from the approved employment (if requested by him so to do) such super-

annuation allowance, additional allowance or gratuity as the Secretary of State after consultation with the Treasury considers to be actuarially equivalent, at the said date, to the superannuation allowance, additional allowance or gratuity, as the case may be, which might be granted to him under paragraph (a) of this Article.

[562]

4. Where a person employed in the police service, who after the date of this Order is transferred to approved employment with the consent of the Secretary of State, dies while in that employment and no provision is made, under any system of superannuation applicable to the approved employment, for the grant of pensions to widows or dependants of persons dying while in that employment, the Secretary of State may grant to his legal personal representatives such gratuity, if any, as might have been granted to them if he had died on the day before the day of the transfer, after deducting therefrom the total amount of any sums paid or payable under such a system of superannuation in respect of his death. [563]

5. Where a person employed in the police service, who having been in that service for not less than five years is after the date of this Order transferred to approved employment with the consent of the Secretary of State, dies after retiring from that employment in circumstances which qualified him for the grant of a superannuation allowance and an additional allowance under Article 2 or 3 of this Order, then if—

- (a) no provision is made under any system of superannuation applicable to the approved employment for the grant of pensions to widows or dependants of persons who die after retiring from that employment, and
- (b) the sums paid or payable to him at the time of his death on account of the said superannuation allowance and additional allowance, together with any sums paid or payable to him, his legal personal representatives and his widow or dependants, under such a system of superannuation are less than the annual amount of salary and emoluments upon which the said superannuation allowance and additional allowance have been computed,

the Secretary of State may grant to his legal personal representatives a gratuity equal to the difference. [564]

6. This Order may be cited as the Metropolitan Police Staffs Superannuation (Approved Employment) Order, 1944. [565]

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THE POLICE REGULATIONS OF AUGUST 28, 1944

S. R. & O., 1944, No. 1022

August 28, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations * :—

1. In paragraph (3) of Regulation 20B of the said Regulations the words "*supplementary allowance*" and the words "*his supplementary allowance*" shall be omitted. [566]

* Words altered or added are printed in italics.

2. In Regulation 24 of the said Regulations after the words "*one week's pay*" and also after the words "*one day's pay*" there shall be inserted the words "*exclusive of war supplement*". [567]

3. For Regulation 47 of the said Regulations there shall be substituted the following Regulation :—

"47.—(1) *The pay of members of a police force holding the rank of sergeant or constable shall be in accordance with the provisions of these Regulations.*

(2) *The pay of all other ranks shall be in accordance with the scale of pay of the force, which shall be subject to the approval of the Secretary of State, with the addition of the war supplement hereinafter provided.*

(3) *No pensionable payment other than those above referred to shall be made*". [568]

4. In Regulation 48 of the said Regulations for the words "*the pay of constables and sergeants*" there shall be substituted the words "*the scales of pay of constables and sergeants*". [569]

5.—(1) In paragraph (1) of Regulation 51 of the said Regulations the words "*Subject to the provisions of the preceding Regulation*" shall be omitted and for the figure "63" there shall be substituted the figure "61".

(2) In paragraph (2) of the said Regulation 51 after the words "*with pay*" there shall be inserted the words "*exclusive of war supplement*". [570]

6. After Regulation 61 of the said Regulations the following Regulation shall be inserted :—

“(e) War Supplement

62.—(1) *For every week in which the annual value of the emoluments of a member of a police force does not exceed £1,000 a year he shall be granted a war supplement to his pay of 19s.*

(2) *For every week in which the annual value of the emoluments of a member of a police force exceeds £1,000 but is less than £1,049 11s. he shall be granted a war supplement to his pay of a sum the annual value of which will, together with the annual value of his emoluments, equal the sum of £1,049 11s.*

(3) *In this Regulation—*

(a) *the expression ‘emoluments’ means pay (other than a war supplement) together with any war duty allowance, any allowance in respect of the performance of the duties of Deputy Chief Constable and either rent allowance or, where the member is provided with a house or quarters free of rent and rates, such sum as the police authority may determine to be the rental value (inclusive of rates) of such house or quarters ;*

(b) *the expression ‘annual value’, in relation to any sum which is fixed with reference to a week, means three hundred and sixty-five sevenths of that sum calculated to the nearest complete penny and the annual value of emoluments shall be ascertained accordingly.* [571]

7.—(1) In the proviso to paragraph (1) of Regulation 71 of the said Regulations after the words "*Provided that*" there shall be inserted the figure "(i)."

(2) At the end of the proviso to paragraph (1) of the said Regulation 71 there shall be added the following proviso :—

"(ii) *if the Chief Officer of Police is satisfied that the allowance payable under the above scale is not sufficient to cover the actual expenses necessarily incurred in any particular case, he may authorise the payment of the difference.*" [572]

8. In Regulation 74 of the said Regulations the words "*together with the supplementary allowance if any paid to him under Regulation 64A*" and the words "*together with the supplementary allowance if any paid in respect of that rank under Regulation 64A*" shall be omitted. [573]

9.—(1) Regulation 64A of the said Regulations is hereby revoked.

(2) These Regulations shall come into force on the first day of September, 1944. [574]

* * * * *

THE POLICE (WOMEN) REGULATIONS OF AUGUST 28, 1944

S. R. & O., 1944, No. 1023

August 28, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations * :—

1. In paragraph (3) of Regulation 14B of the said Regulations the words "*supplementary allowance*" and the words "*her supplementary allowance*" shall be omitted. [575]

2. In Regulation 18 of the said Regulations after the words "*one week's pay*" and also after the words "*one day's pay*" there shall be inserted the words "*exclusive of war supplement*". [576]

3. For Regulation 39 of the said Regulations there shall be substituted the following Regulation :—

" 39.—(1) *The pay of women members of a police force holding the rank of constable who, on the 30th September, 1931, were neither serving in nor training as candidates in a police force to which the Police Regulations or the Police (Scotland) Regulations apply or applied when they were so serving or training, shall be in accordance with the provisions of these Regulations.*

(2) *The pay of all other women members of a police force shall be in accordance with the scale of pay of the force for police women, which shall be subject to the approval of the Secretary of State, with the addition of the war supplement hereinafter provided.*

(3) *No pensionable payment other than those above referred to shall be made.*" [577]

4. In Regulation 40 of the said Regulations for the words "*the pay of constables*" there shall be substituted the words "*the scale of pay of constables.*" [578]

5.—(1) In paragraph (1) of Regulation 42 of the said Regulations for the figure "55" there shall be substituted the figure "52".

(2) In paragraph (2) of the said Regulation 42 after the words "*with pay*" there shall be inserted the words "*exclusive of war supplement*". [579]

6. After Regulation 52 of the said Regulations the following Regulation shall be inserted :—

" (d) War Supplement

53.—(1) *For every week in which the annual value of the emoluments of a woman member of a police force does not exceed £1,000 a year she shall be granted a war supplement to her pay of 15s. 6d.*

(2) *For every week in which the annual value of the emoluments of a woman member of a police force exceeds £1,000 but is less than £1,040 9s. she shall be granted a war supplement to her pay of a sum the annual value of which will, together with the annual value of her emoluments, equal the sum of £1,040 9s.*

(3) *In the Regulation—*

(a) *the expression ‘ emoluments ’ means pay (other than a war supplement) together with any war duty allowance and either rent allowance or, where the member is provided with a house or quarters free of rent and rates, such sum as the police authority may determine to be the rental value (inclusive of rates) of such house or quarters ;*

(b) *the expression ‘ annual value ’, in relation to any sum which is fixed with reference to a week, means three hundred and sixty-five sevenths of that sum calculated to the nearest complete penny and the annual value of emoluments shall be ascertained accordingly.”* [580]

7.—(1) In the proviso to paragraph (1) of Regulation 62 of the said Regulations after the words “ *Provided that* ” there shall be inserted the figure “ (i) ”.

(2) At the end of the proviso to paragraph (1) of the said Regulation 62 that shall be added the following proviso :—

“ (ii) *if the Chief Officer of Police is satisfied that the allowance payable under the above scale is not sufficient to cover the actual expenses necessarily incurred in any particular case, he may authorise the payment of the difference.* ” [581]

8. In Regulation 64 of the said Regulations the words “ *together with the supplementary allowance if any paid to her under Regulation 56A* ” and the words “ *together with the supplementary allowance if any paid in respect of that rank under Regulation 56A* ” shall be omitted. [582]

9.—(1) Regulation 56A of the said Regulations is hereby revoked.

(2) These Regulations shall come into force on the first day of September, 1944. [583]

* * * *

THE POLICE REGULATIONS OF NOVEMBER 4, 1944

S. R. & O., 1944, No. 1246

November 4, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police Regulations * :—

1. In paragraph (1) of Regulation 37 of the said Regulations there shall be substituted, for the figure “ *1s. 6d.* ”, the figure “ *2s.* ”, for the figure “ *2s.* ”, the figure “ *2s. 6d.* ”, for the figure “ *8s.* ”, the figure “ *10s.* ” and, for the figure “ *6s.* ”, the figure “ *8s.* ” [584]

2. For Regulation 68 of the said Regulations the following Regulation shall be substituted :—

“ 68. *A member of a police force who is required to do duty in plain clothes for a period of not less than a week shall be paid a plain clothes allowance at that one of the following rates which is appropriate to his rank, namely—*

<i>Superintendent</i>	..	..	..	..	£22 10s. per annum
<i>Inspector</i>	..	..	..	..	£20 per annum
<i>Sergeant or constable</i>	..	..	..	..	7s. 6d. a week :

Provided that a sergeant or constable—

- (a) *who is required to do duty in plain clothes for not less than six days in any period of three months shall be paid a plain clothes allowance in respect of each day at a rate equal to one-sixth of the weekly rate ;*
- (b) *who is provided with overalls when doing duty in plain clothes or for any other reason is, in the opinion of the Secretary of State, put to substantially less or substantially more than the normal expense caused by wearing his own clothes on duty may be paid a plain clothes allowance at a rate approved by the Secretary of State.”*

[585]

3. Paragraph (1) of Regulation 89 of the said Regulations is hereby revoked. [586]

* * * * *

THE POLICE (WOMEN) REGULATIONS OF NOVEMBER 4, 1944

S. R. & O., 1944, No. 1247

November 4, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulations amending the Police (Women) Regulations * :—

1. In paragraph (1) of Regulation 30 of the said Regulations there shall be substituted, for the figure “ 1s. 9d. ”, the figure “ 2s. ”, for the figure “ 1s. 3d. ”, the figure “ 1s. 6d. ”, for the figure “ 6s. ”, the figure “ 8s. ” and, for the figure “ 5s. ”, the figure “ 6s. ” [587]

2. For Regulation 59 of the said Regulations the following Regulation shall be substituted :—

“ 59. *A woman member of a police force who is required to do duty in plain clothes for a period of not less than a week shall be paid a plain clothes allowance at that one of the following rates which is appropriate to her rank, namely—*

<i>Inspector</i>	..	..	..	..	£20 per annum
<i>Sergeant or constable</i>	..	..	..	..	7s. 6d. a week :

Provided that a sergeant or constable—

- (a) *who is required to do duty in plain clothes for not less than six days in any period of three months shall be paid a plain clothes allowance in respect of each day at a rate equal to one-sixth of the weekly rate ;*

- (b) *who is provided with overalls when doing duty in plain clothes or for any other reason is, in the opinion of the Secretary of State, put to substantially less or substantially more than the normal expense caused by wearing her own clothes on duty may be paid a plain clothes allowance at a rate approved by the Secretary of State.*" [588]

3. Paragraph (1) of Regulation 80 of the said Regulations is hereby revoked. [589]

* * * * *

THE TEMPORARY CONSTABLES (EMERGENCY) (NO. 2) RULES, 1944

S. R. & O., 1944, No. 1273

November 13, 1944

In pursuance of the power conferred on me by Regulation 40AC of the Defence (General) Regulations, 1939, I hereby make the following Rules amending the Temporary Constables (Emergency) Rules, 1943 :—

1. For paragraph (1) of Rule 8 the following paragraph shall be substituted :—

“(1) The basic pay of a constable shall be 80s. 6d. weekly and shall commence to accrue on the date on which the constable reports for duty.” [590]

2. At the end of Rule 11 there shall be added the following paragraph :—

“(2) Where proficiency pay is withdrawn in accordance with the foregoing provisions of this Rule, the constable shall be informed that at the end of such period not exceeding six months as may be notified to him at the time of withdrawal the Chief Officer of Police will consider the question of restoring the proficiency pay and will inform him of his decision.” [591]

3. After Rule 11 the following Rule shall be inserted :—

“11A.—(1) A constable who has completed not less than one year's qualifying service and has attained twenty years of age shall be granted service pay of the appropriate weekly amount specified in the subjoined table :—

Length of qualifying service	Constable being a Class I Reservist	Constable other than a Class I Reservist
1 year but under 2 years	3s. 6d. a week	4s. a week
2 years but under 3 years	7s. a week	8s. a week
3 or more years	10s 6d. a week	12s. a week

(2) The length of a constable's qualifying service shall be determined by aggregating every period of such service (whether continuous or not) other than service before attaining the age of eighteen years or service before the 3rd September, 1939.

(3) In this Rule the expression ‘qualifying service’ means whole-time paid service, including leave with full pay but excluding leave, absence or suspension without full pay or the equivalent of full pay, in any one or more of the capacities specified in Appendix IV :

Provided that where a person in any capacity so specified has been dismissed or discharged therefrom by reason of misconduct or the commission of a criminal offence, service in that capacity shall not be reckoned as qualifying service." [592]

4. For Rule 12 the following Rule shall be substituted :—

" 12. A constable who is not supplied with boots by the Police Authority shall be paid a boot allowance at the rate of 2s. weekly, and a constable who is so supplied shall be paid a repair allowance not exceeding 1s. 6d. a month." [593]

5. In Rule 20 (which relates to the pay of constables during sick leave or special leave) there shall be added after the words " Personal Injuries (Emergency Provisions) Act, 1939," the words " or by the amount of any weekly payment which he may receive under the Workmen's Compensation Acts, 1925 to 1943, by way of compensation for injury or sickness ". [594]

6. In paragraph 3 of Appendix II (which relates to reduction in rate of pay as a disciplinary punishment) for the words " basic pay " there shall be substituted the words " aggregate of the basic pay and of the service pay." [595]

7. In paragraph 4 of Appendix II (which relates to fines as a disciplinary punishment) for the words " basic pay " there shall be substituted the words " aggregate of the basic pay and of the service pay ", and for the words " weekly pay " there shall be substituted the word " aggregate ". [596]

8. At the end of Appendix III there shall be added Appendix IV in the Schedule hereto. [597]

9. These Rules may be cited as the Temporary Constables (Emergency) (No. 2) Rules, 1944. [598]

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SCHEDULE

APPENDIX IV

Capacities referred to in Rule 11A of these Rules

Member of the Police War Reserve ;
 member of the Police Auxiliary Messenger Service ;
 employment as a special constable, not being a person appointed under section 3 of the Special Constable Act, 1923, or a person employed by any railway, inland navigation, dock or harbour undertaking ;
 member of the armed forces of the Crown ;
 member of the Royal Observer Corps ;
 member of the Auxiliary Coastguard Service ;
 member of the National Fire Service ;
 member of the London Fire Brigade or of any fire brigade maintained under the Fire Brigades Act, 1938, by a local authority ;
 member of the Auxiliary Fire Service ;
 member of the Civil Defence Reserve ;
 employment by a local authority as a member of any of the Civil Defence General Services, that is to say the ambulance, decontamination, first aid, messenger, report and control, rescue and warden services or any service combining any such services ;
 employment for the organisation of the fire guard services in any area by a local authority as fire guard area officer, reserve superintendent, head fire guard, senior fire guard, depot superintendent or deputy depot superintendent. [599]

Note as to S. R. & O., 1944, No. 1273.—*The purpose of these Rules is to increase the basic pay of a temporary constable from 78s. 6d. to 80s. 6d. a week (Rule 1), to require subsequent reconsideration of the restoration of proficiency pay where withdrawn (Rule 2), to provide for the*

grant of extra pay ("service pay") in recognition of length of service (Rule 3), to improve the allowances payable in respect of boots (Rule 4), to authorise deductions from pay during sick leave or special leave of weekly payments under the Workmen's Compensation Acts, 1925 to 1943, in respect of off-duty employment (Rule 5), and to make consequential amendments of the existing Rules.

ORDER IN COUNCIL . . . REVOKING REGULATION 40A OF THE DEFENCE (GENERAL' REGULATIONS) 1939

S. R. & O., 1944, No. 741

June 29, 1944

The following provisions of the Defence (General) Regulations, 1939, are hereby revoked, that is to say—

- (a)
- (b)
- (c) Regulation 40A (which enables any person appointed to serve as a constable of the Metropolitan Police Force to make a declaration before any justice of the peace). [600]

Note.—(a) and (b) do not apply to Local Authorities.

THE POLICE REGULATION OF DECEMBER 22, 1944

S. R. & O., 1944, No. 1476

December 22, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulation in substitution for Regulation 62 of the Police Regulations * :—

" (e) War Supplement

62.—(1) *Every sergeant or constable shall be granted a war supplement to his pay at the rate of 23s. a week.*

(2) *Every other member of a police force shall be granted :—*

- (a) *in respect of any period in which the annual value of his emoluments does not exceed £1,500, a war supplement to his pay of the annual value of £60 ;*
- (b) *in respect of any period in which the annual value of his emoluments exceeds £1,500 but is less than £1,560 a war supplement to his pay of an annual value equal to the difference between the annual value of his emoluments and £1,560.*

(3) *In paragraph (2) of this Regulation, the expression ' emoluments ' means pay (other than a war supplement), together with any allowance payable under Regulation 65, and where a house or quarters is provided free of rent and rates, such sum as the Police Authority may determine to be the rental value (inclusive of rates) of such house or quarters."* [601]

* * * * *

THE POLICE (WOMEN) REGULATION OF DECEMBER 22, 1944

S. R. & O., 1944, No. 1477

December 22, 1944

I, the Right Honourable Herbert Morrison, one of His Majesty's Principal Secretaries of State, in pursuance of the powers conferred on me by section 4 of the Police Act, 1919, hereby make the following Regulation in substitution for Regulation 53 of the Police (Women) Regulations * :—

“(e) War Supplement

53.—(1) *Every woman member of a police force holding the rank of sergeant or constable shall be granted a war supplement to her pay at the rate of 18s. 6d. a week.*

(2) *Every other woman member of a police force shall be granted a war supplement to her pay at the rate of £48 a year.* [602]

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CASE

Police—Pension—Tuberculosis contracted during period of service—Whether an “injury”—Police Pensions Act, 1921 (c. 31), s. 2 (1) (c).

The respondent entered the City of London Police Force in 1939 being passed as medically fit. In 1942 he was discharged on the ground of his incapacity for the performance of his duty due to pulmonary tuberculosis. He applied to the police authority for a special pension for life under the Police Pensions Act, 1921, s. 2 (1) (c), on the ground that the tuberculosis was an injury which he had received in the execution of his duty in the Police Force. The respondent gave evidence that in September, 1940, he was on duty for twelve hours per day for a period of fourteen days instead of the usual eight hours, and a doctor in evidence stated that the onset of the disease probably occurred about that time. On behalf of the appellants, the police authority, it was contended (1) that tuberculosis was not an injury within the meaning of sect. 2 (1) (c) of the Act; and (ii) that there was no evidence to support a finding that the tuberculosis contracted by the respondent was received in the execution of his duty :—

Held : (i) upon the true construction of sect. 2 (1) (c) of the Act, tuberculosis is an injury within the meaning of the section.

(ii) at the probable period of the infection the respondent was subjected to debilitating conditions of service owing to the war and there was sufficient evidence to support the finding of the court below that the respondent's tuberculosis was contracted as a direct result of and, therefore, suffered in the execution of his duty.—*GARVIN v. CITY OF LONDON POLICE AUTHORITY*, [1944] 1 K. B. 358; [1944] 1 All E. R. 378; 113 L. J. (K. B.) 305; 170 L. T. 336; 108 J. P. 107; 60 T. L. R. 207; 42 L. G. R. 94, D. C. [603]

* Words substituted are printed in italics.

PRIVATE STREETS

CASE :—

Watford Corpn. v. London Passenger Transport Board, [1944] 2 All E. R. 400

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CASE

Highways—Private street works—Apportionment of cost—Objection—Persons protected under statute required to give notice of objection—Private Street Works Act, 1892 (c. 57), ss. 7, 22.

The plaintiffs had executed certain private street works and, under the Private Street Works Act, 1892, made an apportionment of the cost on the defendants whose railway abutted on the street. The defendants claimed to be exempted from the liability to make this contribution by sect. 22 of the Act and gave a notice of objection under the Act, but the notice was out of time. The plaintiffs contended that, even if the defendants were protected by sect. 22, they had lost that protection by failure to give the notice of objection in due time under sect. 7. The defendants contended that persons protected by sect. 22 of the Act were not entitled to give notice of objection :—

Held : persons protected by sect. 22 of the Act upon whom an apportionment has been made are required to give notice of objection under sect. 7 (f) of the Act and by failing to do so as they lose the protection of sect. 22.—**WATFORD CORPN. v. LONDON PASSENGER TRANSPORT BOARD**, [1945] K. B. 129; [1944] 2 All E. R. 400; 42 L. G. R. 308. [604]

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ORDERS, CIRCULARS AND MEMORANDA

THE RATING AND VALUATION ACT (ASSESSMENT APPEALS) (AMENDMENT) RULES, 1944

S. R. & O., 1944, No. 208/L.8

February 25, 1944

In pursuance of the powers conferred upon me by section 34 of the Rating and Valuation Act, 1925, I hereby make the following Rules :—

1. These Rules may be cited as the Rating and Valuation Act (Assessment Appeals) (Amendment) Rules, 1944. **[605]**

2. For the words “ These fees may be increased by the same percentage as is for the time being authorised in respect of business in the Supreme Court by Order LXV Rule 10 (2) of the Rules of the Supreme Court ” in paragraph 2 (1) of Part I of the Schedule to the Rating and Valuation Act (Assessment Appeals) Rules, 1927, as amended by the Rating and Valuation Act (Assessment Appeals) (Amendment) Rules, 1932 (which paragraph relates to the fees to be allowed to solicitors upon taxation) there shall be substituted the words “ These fees may be increased by the same percentage as is for the time being authorised in respect of business in the Supreme Court by Order LXV Rules 10 (2) and 10A of the Rules of the Supreme Court.” **[606]**

3.—(1) The Rating and Valuation Act (Assessment Appeals) (Amendment) Rules, 1932, are hereby revoked.

(2) These Rules shall come into force on the first day of March, 1944. **[607]**

* * * * *

THE RATING AND VALUATION ACT (PRODUCT OF RATES AND PRECEPTS) AMENDMENT RULES, 1944

S. R. & O., 1944, No. 425

April 6, 1944

The Minister of Health after such consultations as are required by section 58 of the Rating and Valuation Act, 1925, and in exercise of the powers conferred on him by sections 9 and 58 of that Act, and of all other powers enabling him in that behalf, hereby makes the following rules :—

1.—(1) These rules may be cited as the Rating and Valuation Act (Product of Rates and Precepts) Amendment Rules, 1944, and shall be construed as one with the Rating and Valuation Act (Product of Rates and Precepts) Rules, 1938 (in these rules called “ the principal rules ”).

(2) These rules shall have effect for the purposes of any precept issued by a precepting authority in respect of a period beginning on or after the first day of April, 1943. **[608]**

2. Immediately after the definition of “ cost of collection ” in rule 1 of the principal rules there shall be added the following definition :—

“ net cost of making, collecting and recovering rates ” includes any sums properly payable by the rating authority under section 1 of the Local Government Staffs (War Service) Act, 1939, to or in respect of any person whose remuneration would, had he continued to be employed by the rating authority, have been chargeable as part of such net cost. **[609]**

* * * * *

CASES

Rates and Rating—Valuation list—Proposed amendment to valuation list—Appeal—Appellants not entitled but invited to attend hearing—Whether appellants had a locus standi in the matter—Grounds of proposed amendment—“Annual revision”—Sufficiently—Rating and Valuation Act, 1925 (c. 90), s. 37 (1), (2), (4), (5), (7), (8).

The respondent rating authority made a proposal under the Rating and Valuation Act, 1925, s. 37, for the amendment of the valuation list for a certain rating area in respect of a hereditament owned but not occupied by the appellants. The respondent rating authority served a notice of the proposal upon the occupier in accordance with sub-sect. (2) of the section, and also a notice upon the appellants in which the reason given for the proposal was stated to be “annual revision.” The section did not authorise the service of a notice on the appellants. The appellants acting upon the notice duly appeared, without there being any objection to their *locus standi*, at a hearing before the respondent assessment committee who allowed the proposed amendment. On appeal from that decision the respondents objected that the appellants had no right of appeal under the section, inasmuch as they ought never to have been served with the notice of the proposal and that, therefore, there was no jurisdiction in anybody to determine the proposal and that quarter sessions could have no jurisdiction to entertain the appeal. The appellants contended (i) that they were entitled under the section to appeal; and (ii) that the proceedings for the amendment of the valuation list were defective in that the respondent rating authority, in serving the appellants with notice of the proposal, did not specify within the meaning of sect. 37 (2) (b) the grounds on which the proposal was supported:—

Held: (i) in the circumstances the appellants were entitled to appeal under the section.

(ii) in order to satisfy sect. 37 (2) (b), the notice must give the party affected an indication in broad outline of the reasons why the amendment is being proposed. The words “annual revision” are not sufficient.—*GARTSIDES (BROOKSIDE BREWERY), LTD., AND BENTS BREWERY CO., LTD. v. UPPER AGRIBRIGG ASSESSMENT COMMITTEE, SADDLEWORTH RATING AUTHORITY AND WEST RIDING OF YORKSHIRE COUNTY VALUATION COMMITTEE*, [1944] 2 All E. R. 37; *sub nom.* *BENTS BREWERY CO., LTD. v. UPPER AGRIBRIGG ASSESSMENT COMMITTEE*, [1944] K. B. 524, D. C. [610]

Rates and Rating—Rateable occupation—Possession—Blocks of flats owned by companies—Tenants paying rent inclusive of rates—Rates in arrears—Order appointing receiver and manager—Receiver entered in rate-book of borough council as new rateable occupier—No appeal against entry—Whether change of occupation of premises—Liability to be rated—Poor Rate Assessment and Collection Act, 1869 (c. 41), s. 16.

Two companies were the rateable occupiers of certain premises owned by them. The premises were let out as flats and the rents charged to the tenants were inclusive of rates. The rates were considerably in arrears. On February 26, 1940, the respondent was appointed receiver and manager under powers contained in a trust deed, securing an issue of first debentures, and the respondent was, without his knowledge, entered by the borough council as the rated occupier of the premises in question. No appeal was made by the respondent against the entry. On May 7, 1940, by an order of the court the respondent was appointed receiver and manager of all the property and assets except uncalled capital of the two companies concerned. The appellant, a collector of rates, preferred a complaint against the respondent that he, being the person duly rated and assessed, had failed to pay the rates

outstanding as from the date of his appointment. The magistrate, following a previous decision of the Court of Appeal in a case where the material facts were similar, dismissed the complaint on the ground that the respondent was not, and never had been, in rateable occupation :—

Held : the mere order of the court appointing the respondent to receive and manage the assets of the companies did not create a beneficial occupation of the premises. There was, therefore, no justification for entering the respondent as the rateable occupier.

In re Marriage, Neave & Co., North of England Trustee, Debenture and Assets Corpn. v. Marriage, Neave & Co., [1896] 2 Ch. 663, *followed*.

Moss Steamship Co., Ltd. v. Whinney, [1912] A. C. 254, *distinguished*.—*GYTON v. PALMOUR*, [1944] 2 All E. R. 540 ; 61 T. L. R. 80 ; 42 L. G. R. 321, D. C.—[611]

Rates and Rating—Rateable occupation—Lease of unfurnished dwelling-houses taken in case of emergency—Houses empty and unused—Whether rateably occupied.

The respondents were the lessees of a number of unfurnished dwelling-houses, which they intended to use as offices in the event of enemy action damaging their existing offices. The houses were ready for occupation, but were entirely devoid of movable furniture and tenant's fixtures. The respondents were under no obligation to repair or maintain the premises until they actually entered into possession. As their offices were not damaged, they had no occasion to use the houses and the question arose whether they were in rateable occupation of the premises :—

Held : there was no rateable occupation of the premises, since a mere intention to occupy in hypothetical circumstances which may never come into existence is not rateable occupation.

Decision of the Divisional Court (Viscount CALDECOTE, L.C.J., CHARLES and HALLETT, JJ.) ([1943] 2 All E. R. 696) *affirmed*.—*HAMPSTEAD CORPN. v. ASSOCIATED CINEMA PROPERTIES, LTD.*, [1944] 1 All E. R. 436 ; 113 L. J. (K. B.) 446 ; 170 L. T. 266 ; 108 J. P. 155 ; 42 L. G. R. 175 ; *sub nom.* *ASSOCIATED CINEMA PROPERTIES, LTD. v. HAMPSTEAD BOROUGH COUNCIL*, [1944] K. B. 412 ; 60 T. L. R. 275, C. A. [612]

Rates and Rating—Derating—Industrial hereditament—Building used for storage and distribution—Rating and Valuation (Apportionment) Act, 1928 (c. 44), s. 3 (1), (3).

The appellant company were manufacturers of glassware. Close to, but not connected with, the manufacturing premises the appellants also owned a building which was used for the purpose of storing and distributing the finished goods except for a small proportion thereof which underwent a finishing process. The question was whether this building was an industrial hereditament within the Rating and Valuation (Apportionment) Act, 1928 :—

Held : storage and distribution were the primary purposes of the building, therefore the premises were used primarily for purposes not those of a factory or workshop within the proviso to sect. 3 (1) and were not an industrial hereditament.

Decision of Divisional Court ([1944] 1 All E. R. 207) *affirmed*.—*JOBLING (JAMES A.) & Co., LTD. v. SUNDERLAND COUNTY BOROUGH ASSESSMENT COMMITTEE*, [1944] 1 All E. R. 500 ; 60 T. L. R. 330, C. A. [613]

Rates and Rating—Derating—Industrial hereditament—Canteen situated apart from factory but exclusively for use of employees—Rating and Valuation (Apportionment) Act, 1928 (c. 44), s. 3.

The appellants occupied a factory which was admitted to be an industrial hereditament. The appellants also occupied a plot of land, at a distance of

260 feet from the factory, on which was situated a canteen which provided meals at cost price exclusively for the appellants' employees who worked at the factory. The question was whether the canteen was an industrial hereditament within the meaning of the Rating and Valuation (Apportionment) Act, 1928, s. 3, and, therefore, entitled to the derating provisions of the Act. The respondents contended that the canteen was occupied and used primarily (i) for the purpose of a retail shop or of premises of a similar character; or (ii) for purposes other than a factory or workshop, and, therefore, came within the proviso to sect. 3 :—

Held : (i) the canteen was not open to the public for the purpose of buying and taking away goods there offered for sale and, therefore, was not a retail shop.

(ii) the canteen was primarily occupied and used for the purposes of a factory or workshop, and was an industrial hereditament within the Act.—*SIMMONDS AEROCESSORIES (WESTERN), LTD. v. ASSESSMENT COMMITTEE*, [1944] 1 All E. R. 264; *sub nom.* *SIMMONDS AEROCESSORIES (WESTERN), LTD. v. PONTYPRIDD AREA ASSESSMENT COMMITTEE*, [1944] K. B. 231; 113 L. J. (K. B.) 145; 170 L. T. 231; 108 J. P. 66; 60 T. L. R. 192; *sub nom.* *SYMMONS AEROCESSORIES (WESTERN), LTD. v. PONTYPRIDD ASSESSMENT COMMITTEE*, 42 L. G. R. 45, D. C. [614]

Rates and Rating—Assessment—Machinery—Transformers and distribution boards—Main transmission of power—Rating and Valuation Act, 1925 (c. 90), s. 24, Sched. III—Plant and Machinery (Valuation and Rating) Order, 1927 (S. R. & O., 1927, No. 480).

Electric current was brought into a large works from the grid at a voltage of 11,000 volts. From the first distribution board some of this current was led straight to machines operating at 11,000 volts and the remainder taken through transformers to a second distribution board at 440 volts. From this board some passed to the machinery and some to another distribution board at 110 volts. Similar arrangements applied to other current generated at the works at 6,000 volts and 2,200 volts :—

Held : all the above were part of the " main transmission of power " and, therefore, part of the hereditament for rating purposes.

Decision of the Divisional Court (Viscount CALDECOTE, L.C.J., CHARLES and HALLETT, JJ.) ([1943] 2 All E. R. 707) *affirmed*.—*THOMAS (RICHARD) & CO., LTD. v. COUNTY VALUATION COMMITTEE and ASSESSMENT COMMITTEE*, [1944] 1 All E. R. 417; 60 T. L. R. 298; *sub nom.* *THOMAS (RICHARD) & CO., LTD. v. MONMOUTH COUNTY VALUATION COMMITTEE*, 170 L. T. 333; 42 L. G. R. 139, C. A. [615]

Rates and Rating—Metropolis—Assessment—Provisional list—Alteration in value—Reduction in value of club premises due to war conditions—" General alteration in the value of all classes of hereditaments "—Rating and Valuation (Postponement of Valuations) Act, 1940 (c. 12), s. 1 (2) (b).

By a quinquennial valuation made in April, 1936, the gross and rateable value of the Conservative Club's premises in the rating area of Westminster were taxed at £8,500 and £7,080 respectively. After the outbreak of hostilities the club made a request to be inserted in a provisional valuation list at reduced values. The appellants inserted the premises in a provisional list at the existing values, and the premises were not included in the supplemental valuation list deposited by the rating authority under the Rating and Valuation (Postponement of Valuations) Act, 1940. The club claimed that they were entitled to have the assessment of the premises reduced to £5,000 gross value with corresponding rateable value by reason of the provisions of the Rating and Valuation (Postponement of Valuations) Act, 1940, s. 1. It was

not disputed that the annual value of the club was reduced from £8,500 to £5,000 gross value by reason of circumstances arising out of the present emergency, but the appellants contended that only part of this fall in value was due to special depreciation justifying a lowering of the assessment and that the remaining reduction in value of this and other clubs of a comparable character by reason of the existence of the emergency merely reflected a general alteration in the values of all classes, or substantially all classes, of hereditaments in the area within the meaning of sect. 1 (2) (b) of the Act:—

Held: the meaning of “classes” in sect. 1 (2) (b) is to be gathered from the words “other hereditaments of a comparable character.” By a class of hereditaments is meant a group of premises which for the purposes of rating valuation may be regarded as possessing comparable features. Since it had been found as a fact that the reduction in value which affected the Conservative Club was not a reduction which was generally applicable to all hereditaments or substantially all hereditaments in Westminster, the reduction claimed must be allowed.

Decision of the Court of Appeal ([1943] 1 All E. R. 104) *affirmed*.—WESTMINSTER ASSESSMENT COMMITTEE *v.* CONSERVATIVE CLUB, [1944] A. C. 55; [1944] 1 All E. R. 104; 113 L. J. (K. B.) 77; 170 L. T. 132; 108 J. P. 91; 60 T. L. R. 143; 88 Sol. Jo. 16; 42 L. G. R. 4, H. L.; *sub nom.* CONSERVATIVE CLUB *v.* WESTMINSTER ASSESSMENT COMMITTEE, R. *v.* LONDON COUNTY J.J., *Ex p.* WESTMINSTER ASSESSMENT COMMITTEE, [1943] 1 All E. R. 104; 41 L. G. R. 199, C. A. [616]

REGISTRATION OF ELECTORS

See ELECTIONS.

REGULATED INDUSTRIES, TRADES AND BUSINESSES

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			Acetylene (Exemption) Order, 1944	260
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ORDERS, CIRCULARS AND MEMORANDA

ORDER IN COUNCIL AMENDING REGULATION 55F OF THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 323

March 24, 1944

In paragraph (1) of Regulation fifty-five F of the Defence (General) Regulations, 1939 (which provides safeguards for persons carrying on offensive trades closed under concentration arrangements), after the words “the Public Health Act, 1936” there shall be inserted the words “or lawfully established

without any such consent", and at the beginning of sub-paragraph (b) of that paragraph there shall be inserted the words "where the trade was established with the consent of the local authority, also". [617]

* * * * *

Note as to S. R. & O., 1944, No. 323.—*Regulation 55F of the Defence (General) Regulations, 1939, enables offensive trades which were established with the consent of the local authority concerned under the Public Health Acts but which were closed under approved arrangements for the concentration of industry to be restarted when the concentration arrangements cease. This Order amends the Regulation by extending a similar protection to offensive trades which were lawfully carried on before they were closed but, inasmuch as they were established before the passing of the relevant Public Health Acts, neither required nor received any consent to their establishment.*

ORDER IN COUNCIL ADDING REGULATION 57D TO THE DEFENCE (GENERAL) REGULATIONS, 1939

S. R. & O., 1944, No. 464

April 17, 1944

After Regulation fifty-seven C of the Defence (General) Regulations, 1939, there shall be inserted the following Regulation :—

"57D. If the Secretary of State is satisfied that it is impracticable in any circumstances for the conditions to be complied with subject to which exemption from the provisions of the Explosives Act, 1875, can be obtained as respects certain acetylene, and that it is expedient in the interests of the efficient prosecution of the war or for maintaining supplies and services essential to the life of the community that such acetylene should in those circumstances be so exempt, he may by order provide for such exemption having effect in such circumstances as may be specified in the order subject to such conditions as may be therein specified." [618]

* * * * *

Note as to S. R. & O., 1944, No. 464.—*An order of the Secretary of State made under the Explosives Act, 1875 (Order No. 9, dated the 23rd June, 1919) prescribed certain conditions as to the compression in cylinders of acetylene when contained in a homogeneous porous substance with or without acetone or other solvent. If these conditions are satisfied, the acetylene is exempt from the provisions of that Act; if they are not satisfied, s. 43 of that Act applies to it by virtue of an Order in Council made under that Act (Order in Council No. 30 dated the 2nd February, 1937) and it is prohibited from being manufactured, kept, imported, conveyed or sold. The prescribed conditions include requirements as to the design of cylinders, with which certain cylinders manufactured outside the United Kingdom do not conform. This Regulation authorises the Secretary of State to prescribe circumstances in which the handling of such acetylene in such cylinders is to be lawful if conditions prescribed by him under the Regulation are satisfied.*

THE ACETYLENE (EXEMPTION) ORDER, 1944

S. R. & O., 1944, No. 667

June 6, 1944

In pursuance of the powers conferred upon me by Regulation 57D of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. Where—

- (a) acetylene to which this Order applies is stored in a cylinder manufactured outside the United Kingdom, and
- (b) either the cylinder in which it is stored is government property and of the required specification, or it is intended for export or for shipment as stores,

the acetylene shall be exempt from the provisions of the Explosives Act, 1875, if the conditions set out in the Schedule to this Order are satisfied in relation to the charging of the cylinder in which it is stored. [619]

2. For the purposes of the preceding Article the expression "government property" means the property of His Majesty or a department of His Majesty's Government in the United Kingdom or in Northern Ireland or the government of any Dominion or allied power (as defined in Regulation 104A of the Defence (General) Regulations, 1939) or a department of any such government or an associated authority (as defined in the said Regulation 104A) or a person acting as agent for His Majesty or for any such government or department or authority; and the expression "of the required specification" means manufactured in accordance with specification No. 8 of the Interstate Commerce Commission of the United States of America and the supplements thereto. [620]

3. It shall be a defence for a person charged with an offence under the said Act in respect of acetylene which would have been exempt from the provisions thereof if it had been intended for export or for shipment as stores to prove that he had reasonable cause to believe that it was so intended. [621]

4. The acetylene to which this Order applies is acetylene which by the Order in Council (No. 30) dated the second day of February, 1937, made under section 104 of the Explosives Act, 1875, is declared to be deemed to be explosive and which is contained in a homogeneous porous substance with acetone or other solvent. [622]

5. This Order may be cited as the Acetylene (Exemption) Order, 1944. [623]

SCHEDULE

Conditions

1. The cylinder shall not be charged except at premises which have been approved by one of His Majesty's Inspectors of Explosives under the Order of the Secretary of State (No. 9) dated the twenty-third day of June, 1919.

2. No firm shall charge the cylinder unless—

(a) there is permanently stamped upon it a serial identification number and the name or mark of the manufacturer, or

(b) the firm is in possession of full particulars of the manufacture of the cylinder or has otherwise satisfied itself that the cylinder may safely be charged with acetylene.

3. No firm shall charge the cylinder unless there is permanently stamped upon it the tare weight of the cylinder including porous substance and acetone or other solvent.

4. Where the cylinder bears a mark or label indicating that it was originally owned by another charging firm having an establishment in the United Kingdom or by a firm associated with a charging firm in the United Kingdom, no firm shall charge it before full particulars of its manufacture have been obtained from that establishment or charging firm in the United Kingdom.

5. The cylinder shall be subjected to a thorough visual external examination before it is charged.

6. Where on the cylinder there are no markings or other record showing that the condition of the porous substance therein has been examined within the preceding twelve months, the valve shall be removed and the condition of the porous substance at the neck of the cylinder ascertained.

7. Any void or cavity that may be found in the porous substance at the neck of the cylinder shall be completely filled by the addition of a suitable material (which need not be of a similar substance to the porous substance in the cylinder).

8. When acetone or other solvent is added to the cylinder to replace loss resulting from use of the contents of the cylinder, the amount added shall not exceed that required to restore the weight of the cylinder when empty of gas to the tare weight stamped on the cylinder.

9. The cylinder shall not be charged to a pressure above that for which there are reasonable grounds to believe that the cylinder has been designed, and in any case the pressure to which the cylinder is charged shall not exceed two hundred and twenty-five pounds to the square inch at a temperature of sixty degrees Fahrenheit.

10. Any firm charging the cylinder shall affix thereto a label showing the date on which it was charged, the name of the firm by which it was charged, the address of the charging station, and, if the pressure to which it was charged was less than two hundred and twenty-five pounds to the square inch at a temperature of sixty degrees Fahrenheit, that pressure. [624]

Note as to S. R. & O., 1944, No. 667.—*Acetylene when compressed in a cylinder in a homogeneous porous substance with or without acetone or other solvent is exempt from the provisions of the Explosives Act, 1875, if certain conditions prescribed by Order (No. 9) of the Secretary of State dated the 23rd June, 1919, are complied with. The present Order exempts acetylene in cylinders manufactured outside the United Kingdom and either owned by His Majesty's Government, a Dominion Government or allied power or intended for export or shipment as stores which do not comply with those conditions if the conditions in the Schedule to the present Order are complied with.*

THE PETROLEUM ORDER, 1944

S. R. & O., 1944, No. 1141

September 30, 1944

In pursuance of the power conferred upon me by Regulation 19B of the Defence (General) Regulations, 1939, I hereby order as follows :—

1. The Petroleum (No. 3) Order, 1940 (which regulates the supply and storage of petroleum and other substances capable of being used as fuel or lubricants for motor vehicles), is hereby revoked. [625]

2. This Order may be cited as the Petroleum Order, 1944, and shall come into force on the first day of November, 1944. [626]

* * * * *

ROAD TRAFFIC

ORDERS, CIRCULARS AND MEMORANDA :—		PAGE		PAGE
Motor Vehicles (Authorisation of Special Types) (Amendment) Order, 1944	- - - -	262	Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1944	- - - - 263
			Motor Vehicles (Authorisation of Special Types) (No. 2) Order, 1944	- - - - 264

THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (AMENDMENT) ORDER, 1944

S. R. & O., 1944, No. 679

June 15, 1944

Whereas by virtue of the Ministers of the Crown (Minister of Transport) Order, 1941, and section 3 of the Road Traffic Act, 1930, the Minister of War Transport (hereinafter called "the Minister") may by Order authorise,

subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials ;

And whereas by paragraph 5 of the Motor Vehicles (Authorisation of Special Types) General Order, 1941 (hereinafter called "the Principal Order"), the Minister authorised the use on roads of the vehicles specified in Column 1 of the Second Schedule to that Order which are the property of, or for the time being under the control of, the persons specified in Column 2 of that Schedule, notwithstanding that they do not in all respects comply with the requirements of the Construction and Use Regulations and the Track Laying Regulations respectively specified in Column 3 of the said Schedule.

And whereas it is expedient that a similar authorisation should be given in respect of vehicles of the types so specified while they are the property of, or under the control of, or being made for the Minister of Supply.

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers enabling him in that behalf hereby makes the following Order :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) (Amendment) Order, 1944." [627]

2. The Principal Order shall have effect as though the words "or Minister of Supply or any contractor making such vehicles for that Minister or any sub-contractor of such contractor" were added at the end of each item in Column 2 of the Second Schedule thereto. [628]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [629]

* * * * *

THE ROAD VEHICLES (REGISTRATION AND LICENSING) (AMENDMENT) REGULATIONS, 1944

S. R. & O., 1944, No. 1070

September 15, 1944

Whereas in exercise of his powers under, *inter alia*, section 6 of the Roads Act, 1920, the Minister of War Transport on the 28th July, 1941, made the Road Vehicles (Registration and Licensing) Regulations, 1941 (hereinafter referred to as "the Principal Regulations"):

And whereas by the Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1942, paragraph (2) of Regulation 26 of the Principal Regulations (which provides, *inter alia*, that as from the first day of October, 1942, every mechanically-propelled vehicle shall comply with the requirements therein specified as to the exhibition and illumination of its identification marks) was amended by the substitution of "the first day of October, 1944," for "the first day of October, 1942."

And whereas it is expedient that the time for compliance with those requirements should be further extended.

Now, therefore, in exercise of the powers aforesaid and of all other powers enabling him in that behalf the Minister of War Transport hereby makes the following Regulations :—

1. These Regulations may be cited as "The Road Vehicles (Registration and Licensing) (Amendment) Regulations, 1944." [630]

2. The Principal Regulations shall have effect as though in paragraph (2) of Regulation 26 thereof, as so amended, the expression "the first day of October, 1946," were substituted for the expression "the first day of October, 1944." [631]

3. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of the interpretation of an Act of Parliament. [632]

* * * * *

THE MOTOR VEHICLES (AUTHORISATION OF SPECIAL TYPES) (NO. 2) ORDER, 1944

S. R. & O., 1944, No. 1105

September 27, 1944

Whereas by section 3 of the Road Traffic Act, 1930, the Minister of War Transport may by Order authorise, subject to such restrictions and conditions as may be specified in the Order, the use on roads of special motor vehicles or trailers or special types of motor vehicles or trailers which are constructed either for special purposes or for tests or trials.

And whereas by virtue of the Ministers of the Crown (Minister of War Transport) Order, 1941, the said powers are now vested in the Minister of War Transport (hereinafter referred to as "the Minister").

Now, therefore, the Minister in exercise of the powers so conferred upon him and of all other powers enabling him in that behalf hereby orders as follows :—

1. This Order may be cited as "The Motor Vehicles (Authorisation of Special Types) (No. 2) Order, 1944." [633]

2. The Minister authorises the use on roads of :—

- (i) the vehicles specified in Part I of the Schedule hereto notwithstanding that such vehicles do not comply with the requirements of Regulation 32 of the Motor Vehicles (Construction and Use) Regulations, 1941, and
- (ii) the vehicles specified in Part II of the Schedule hereto notwithstanding that such vehicles do not comply with the requirements of Regulations 6, 32, 49 and 63 of the Motor Vehicles (Construction and Use) Regulations, 1941.

subject to the condition that no such vehicle shall be operated except by the servants of the Petroleum Board, Shell-Mex House, Strand, London, W.C.2, acting on behalf of any department of His Majesty's Government in the United Kingdom or the government of a foreign power engaged in alliance with His Majesty in any war in which His Majesty is also engaged. [634]

3. The Interpretation Act, 1889, shall apply to the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament. [635]

SCHEDULE

PART I

Tank wagons of the specification known as Type 0854 and manufactured by the Associated Equipment Company, Limited, Windmill Lane, Southall, Middlesex.

PART II

Tank wagons known as the U.S.A. Fuel Servicing Vehicles, Type F and manufactured in the United States of America by the Biederman Motors Corporation, Cincinnati, Ohio, or by the Reo Motors Inc., Lansing, Michigan. [636]

* * * * *

SECONDARY EDUCATION

See SPECIAL EDUCATION VOLUME.

SEWERS AND DRAINS

STATUTES :—

Rural Water Supplies and Sewerage Act, 1944—See WATER SUPPLY.

ORDERS, CIRCULARS AND MEMORANDA :—

Circular 119/44: Post-war Reconstruction Programme—Rural Water Supplies and Sewerage—*See* WATER SUPPLY.

SUMMARY PROCEEDINGS

ORDERS, CIRCULARS AND MEMORANDA :—

[illegible]

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ORDERS, CIRCULARS AND MEMORANDA

THE PROBATION RULES, 1944

S. R. & O., 1944, No. 700/L.30

June 16, 1944

1. These Rules may be cited as the Probation Rules, 1944. [639]
2. These Rules shall come into operation on the first day of July, 1944. [639]
3. The following Rule shall be inserted after Rule 26 of the Probation Rules, 1926 (hereinafter referred to as " the principal Rules ") :—
 - " 26A. An appointing authority may, with the approval of the Secretary of State, appoint a principal Probation Officer or senior Probation Officer to supervise the work of other Probation Officers and to perform other special duties.In these Rules the expression " principal Probation Officer " includes a deputy principal Probation Officer and an assistant principal Probation Officer." [640]

4. The following Rule shall be substituted for Rule 28 of the principal Rules :—

“ 28. An appointing authority may appoint a suitable person to act as a substitute for a Probation Officer absent on leave or sick leave or to act as a temporary officer :

Provided that no person shall, without the approval of the Secretary of State, be employed as a substitute for a continuous period of more than three months or as a temporary officer for a continuous period of more than six months.” [641]

5. The following Rules shall be substituted for Rules 31 and 32 of the principal Rules :—

“ 31. No person who has attained the age of 40 or is less than 23 years of age shall be appointed a full-time Probation Officer :

Provided that the limits of age hereby imposed shall not be applicable in the case of any person serving as a full-time Probation Officer at the date of appointment.

32. No person shall continue to act as a Probation Officer after attaining the age of 65 years :

Provided that for special reason the appointing authority may extend the service of a part-time Probation Officer beyond the age of 65 years for such period as may be approved from time to time by the Secretary of State.” [642]

6. The following Rules shall be substituted for Rules 60, 61, 62 and 63 of the principal Rules :—

“ 60.—(1) Full-time Probation Officers shall be placed on a scale of salary rising from a minimum of £240 to a maximum, in the case of men, of £450 a year and, in the case of women, of £360 a year. They shall proceed from the minimum of the scale by annual increments of £12 a year until a salary of £360 is reached, and full-time men Probation Officers shall thereafter proceed by annual increments of £18 a year until a salary of £450 is reached.

(2) Full-time Probation Officers who are 26 years of age or more on appointment shall be given a starting salary of £240 plus £12 for each completed year of age over 25 :

Provided that in no case shall the starting salary exceed £300.

(3) The annual increments shall be given, if the officer is appointed on the first day of any month, on the anniversaries of that day and, if he is appointed on any other day, on the first day of the month immediately following the anniversaries of the day on which he is appointed :

Provided that in the case of an officer who has attained the age of 25 and has not attained the age of 30 years on appointment the first and subsequent increments shall be given, if he was born on the first day of any month, on the anniversaries of that day and, if he was born on any other day, on the first day of the month immediately following the anniversaries of the day of his birth.

(4) A principal Probation Officer may, with the approval of the Secretary of State, be given a special scale of salary and a senior Probation Officer may, with the like approval, be given an annual allowance in addition to his salary.

61.—(1) The salary of a full-time Probation Officer appointed before the first day of July, 1944, who had not attained the age of 30 years before that day shall on that day be assimilated to the scale fixed by these Rules at a salary of £240 :

Provided that there shall be added sums of £12 for each completed year of age over 25 on that day.

(2) A full-time Probation Officer whose salary is assimilated under this Rule shall be given increments in accordance with the scale fixed by these Rules, if he was born on the first day of any month, on the anniversaries of that day and, if he was born on any other day, on the first day of the month immediately following the anniversaries of the day of his birth.

62. The salary of a full-time Probation Officer appointed before the first day of July, 1944, who had attained the age of 30 years before that day shall on that day be assimilated to the scale fixed by these Rules in accordance with the provisions set out in the Schedule to these Rules and increments in accordance with the said scale shall be given on the day specified in the said Schedule :

Provided that the last increment given to any officer shall in no case exceed such sum as will bring the salary to the maximum of the scale for that officer." [642]

7. The following Rule shall be substituted for Rule 65 of the principal Rules :—

" **65.** A person appointed to act as a substitute for a Probation Officer or as a temporary officer may be paid such weekly salary as may be reasonable but in no case exceeding £5 without the approval of the Secretary of State." [643]

8. The following paragraphs shall be substituted for paragraphs (a) and (b) of Rule 71 of the principal Rules (which relates to the expenses of Probation Officers and other persons named in probation orders) :—

" (a) Actual expenses of travelling, being fares for travelling by rail or other public conveyance and the cost of private conveyances necessarily and properly incurred in circumstances clearly set forth in the claim. A principal Probation Officer whose scale of salary rises to a maximum, in the case of a man, of not less than £750 and, in the case of a woman, of not less than £650 or whose actual salary is, in the case of a man, not less than £700 and, in the case of a woman, not less than £600 shall be entitled to claim first-class railway fares if actually incurred ; but no other Probation Officer or person shall be entitled to claim first-class railway fares.

(b) Allowances for subsistence during necessary absence from home in the discharge of special duties at the following rates :—

For each night's absence, in the case of an officer entitled to claim first-class railway fares, a sum not exceeding 23s. 6d. and, in the case of any other officer or person, a sum not exceeding 20s., the allowance to cover any period of absence up to twenty-four hours.

Where an officer or person is not required to spend the night away from home but is away for more than ten hours, in the case of an officer entitled to claim first-class railway fares, a sum not exceeding 7s. 6d. and, in the case of any other officer or person, a sum not exceeding 6s." [644]

9. The following Rule shall be inserted after Rule 74 of the principal Rules :—

" Employment of Clerks

74A. The Probation Committee, being in the case of a combined area the Probation Committee for that area, may appoint one or more clerks to assist the Probation Officers in the performance of their duties and pay them reasonable remuneration." [645]

10. For the words "and the expenses to be allowed to such officers and persons" in Rule 76 of the principal Rules (which relates to financial arrangements) there shall be substituted the words "the remuneration of clerks appointed to assist Probation Officers in the performance of their duties and the expenses to be allowed to such officers, persons and clerks". [646]

11. At the end of the principal Rules there shall be added the Schedule set out in the Schedule to these Rules. [647]

12. The Probation Rules, 1937, are hereby revoked. [648]

* * * * *

SCHEDULE

ASSIMILATION OF SALARIES OF FULL-TIME PROBATION OFFICERS AGED 30 OR MORE ON THE 30TH JUNE, 1944

1. The salary of a full-time Probation Officer appointed before the first day of July, 1944 who had attained the age of 30 years before that day and who was immediately before that day in receipt of a salary specified in the first column of the subjoined table shall be assimilated to the scale fixed by these Rules at the salary set opposite thereto in the second column of the table :

Provided that—

- (i) a woman officer in receipt of a salary of £320 on the first day of July, 1943, shall receive a salary of £336 ;
- (ii) an officer in receipt of a salary of £400 on the first day of July, 1943, shall receive a salary of £414 ;
- (iii) in the case of men officers whose salary on the thirtieth day of June, 1944, exceed £300 but did not exceed £390 and whose existing incremental date is the first day of July, there shall be added to the salary specified in the second column of the said table an increment in accordance with the scale fixed by these Rules.

Salary immediately preceding the 1st July, 1944					Salary to which assimilated on the 1st July, 1944
£					£
270 or less	..	..	..	..	300
280	..	..	..	..	312
290	..	..	..	..	312
300	..	..	..	..	324
310	..	..	..	..	324
315	..	..	..	..	324
320	..	..	..	..	324
330	..	..	..	..	336
345	..	..	..	..	348
360	..	..	..	..	360
375	..	..	..	..	375
390	..	..	..	..	390
400	..	..	..	..	400

2. Increments in accordance with the scale fixed by these Rules shall be given to the officers to whom the preceding paragraph applies—

- (i) in the case of men officers whose salary on the thirtieth day of June, 1944 did not exceed £300 or who were given on the first day of July, 1944, a salary of £414, on the first day of April in each year ;

- (ii) in the case of other men officers, if their existing incremental date is the first day of any month, on that day in each year and, if it is on any other day, on the first day of the next succeeding month in each year ; and
- (iii) in the case of women officers, on the first day of April in each year. [649]

SUPERANNUATION

STATUTES :—	PAGE		PAGE
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Increase of Pensions (General) Regulations, 1944	— — — 278	Pensions (Increase) Act (Extension) Order, 1944	— — — 291

STATUTES

THE PENSIONS (INCREASE) ACT, 1944

(7 & 8 Geo. 6, c. 21)

PRELIMINARY NOTE

This Act has two objects : first, the increase, to a level corresponding with the increased cost of living, of pensions granted (whether before or after the Act) in respect of service to the state or to a local authority, secondly, the formulation of a scheme of a special character applicable to the pensions of certain classes of civil servants who died or retired on or after February 21, 1922.

S. 1 of the Act and the First Schedule apply (*inter alia*) to teachers, police and firemen, and local government officers. Under s. 4, *post*, the provisions of the Act may be extended by Order in Council to certain classes whose position is analogous to that of local government officers, e.g., probation officers and employees of Insurance Committees appointed under the National Health Insurance Act. See the Pensions (Increase) Act (Extension) Order, 1944, *post*.

The scheme for the increase of pensions follows the lines of similar legislation after the last war, viz : the Pensions (Increase) Act, 1920, and the Pensions (Increase) Act, 1924, and makes provision for increases to be granted to smaller pensioners of all classes covered by the Act, subject to certain conditions as to age, infirmity and maximum income limit. Under this scheme the scale of increases will be as follows :—

	Scale of existing pension per annum	Scale of increase
(1) Married pensioners as pensioners with or least one dependant.	Not exceeding £100	30 per cent.
Ditto.	Exceeding £100 but not exceeding £200	25 per cent.
Ditto.	Exceeding £200	20 per cent.
(2) Unmarried pensioners (including widows and widowers) with no dependants.	Not exceeding £75	30 per cent.
Ditto.	Exceeding £75 but not exceeding £150	25 per cent.
Ditto.	Exceeding £150	20 per cent.

No increases may be granted under the Act if the result will be that the pensioner's total income (excluding the first £52 thereof) will be above £300 per annum if he is married or has at least one dependant, or £225 per annum in any other case.

The supplementary scheme does not apply to persons in local government or analogous services.

S. 3 (1) and (5), *post*, enable the Treasury to provide by Regulations how the income of pensioners and the increases in pensions are to be calculated and also for various other administrative matters. See the Increase of Pensions (General) Regulations, 1944, *post*, and the Increase of Pensions (Calculation of Income) Regulations, 1944, *post*.

The cost of increasing the pensions of (*inter alia*) teachers is to be met by moneys provided by Parliament. Increases in compensation payable by local authorities for loss of office or diminution of emoluments are to be borne by the pension authority. The cost of increasing other pensions payable for local government service will be borne in the first instance by the pension authority, but, if that authority is not the authority with whom the pensioner was last in pensionable service, the cost will be reimbursed by the last-mentioned authority. The increase in pensions payable by police and fire authorities will be payable out of the same funds, and subject to the same conditions as to contributions from other authorities, as the original pension (s. 5, *post*).

S. 7, *post*, provides for penalties for making false statements or representations to obtain any sum payable under the Act.

The Act is an emergency measure and has accordingly been limited in duration to December 31, 1945, when it may be reviewed in the light of changing circumstances (s. 10 (2), *post*). [650]

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An Act to provide for the increase of certain pensions payable in respect of public service. [651] [24th May, 1944.]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. Increase of certain pensions payable in respect of public service.—

(1) Subject to the provisions of this section, a pension specified in the First Schedule to this Act may, in respect of any period after the thirty-first day of December, nineteen hundred and forty-three, be increased by the pension authority by an amount calculated in accordance with the provisions of the Second Schedule to this Act :

Provided that a pension shall not be increased under the provisions of this section unless the pension authority are satisfied that the income of the pensioner does not exceed, in the case of a pensioner who is married or has at least one dependant, three hundred pounds a year, and, in the case of any other pensioner, two hundred and twenty-five pounds a year. [652]

(2) Where a pension is payable in respect of the pensioner's own services, the pension shall not be increased under the provisions of this section unless :—

- (a) the pensioner has attained the age of sixty years : or
- (b) the pensioner has retired on account of physical or mental infirmity from the office or employment in respect of which, or on retirement from which, the pension is payable : or
- (c) the pension authority are satisfied that the pensioner is disabled by physical or mental infirmity : or
- (d) the pensioner is a woman who has at least one dependant. [653]

(3) Where a pension is payable in respect of the services of any person other than the pensioner, not being the deceased husband of the pensioner, the pension shall not be increased under the provisions of this section unless :—

- (a) the pensioner has attained the age of sixty years : or
- (b) the pensioner has not attained the age of sixteen years : or
- (c) the pensioner is a woman who has at least one dependant : or
- (d) the pension authority are satisfied that the pensioner is disabled by physical or mental infirmity. [654]

(4) Where a pension is payable in respect of the services of the deceased husband of the pensioner, the pension shall not be increased under the provisions of this section unless :—

- (a) the pensioner has attained the age of forty years : or
- (b) she has at least one dependant : or
- (c) the pension authority are satisfied that she is disabled by physical or mental infirmity. [655]

(5) For the purposes of this section and of the Second Schedule to this Act, the expression "dependant" means, in relation to any pensioner, any person other than the pensioner with respect to whom the pension authority are satisfied that he is wholly or mainly supported by the pensioner and that his total income from any other source does not exceed fifty-two pounds a year, being either—

- (a) a person who has not attained the age of sixteen years, or who, if he has attained that age, is receiving full-time instruction at any educational establishment or is undergoing training for any trade, profession, or vocation : or
- (b) the father, mother, brother, sister, child, uncle or aunt of the pensioner, or of the husband or wife of the pensioner, or of the deceased husband or wife of the pensioner : or
- (c) the child of any such person as is mentioned in the last foregoing paragraph : or
- (d) the stepfather or stepmother of the pensioner :

and in this subsection the expression "child" includes, in relation to any person, a step-child, an illegitimate child and a child adopted by him in pursuance of an adoption order made under the Adoption of Children Act, 1926, the Adoption of Children (Scotland) Act, 1930, or any corresponding enactment of the Parliament of Northern Ireland, or adopted by him in accordance with the law of the place where he was domiciled at the time of the adoption.

In calculating, for the purposes of this subsection, the income of any such person as is mentioned in paragraph (a) thereof, no account shall be taken of any income accruing to that person as the holder of a scholarship or other educational endowment. [656]

(6) For the purposes of this section, a pensioner shall be deemed to be disabled by physical or mental infirmity if he is permanently incapacitated by such infirmity from engaging in any regular full-time employment. [657]

(7) Where any such pension as is specified in Part II of the First Schedule to this Act may be increased under the provisions of this section, it shall be the duty of the pension authority to increase the pension in accordance with those provisions. [658]

Sub-s. (1). Pension specified in the First Schedule.—The classes of pensioners covered by the Act include teachers, local government officers and police and firemen. See also s. 4 and the Pensions (Increase) Act (Extension) Order, 1944, *post*.

December 31, 1943.—As to the Act is limited to expire on December 31, 1945 (s. 10 (2), *post*), the period during which the increases in pensions will be payable under the Act is two years.

Pension authority.—S. 8, *post*, defines this term as "in relation to any person, the authority by whom the pension is payable."

Dependant.—See the definition in sub-s. (5), *supra*.

Income not exceeding £300 a year.—Under the proviso to this subsection, a pensioner who is married or has at least one dependant may be granted an increase of pension, provided that his income does not exceed £300 per annum. Under s. 3 (1), *post*, the first £52 a year of any income accruing to the pensioner otherwise than in respect of a pension specified in Schedule I to this Act is to be disregarded in calculating his income. Thus the above-mentioned pensioner with less than £350 per annum may get an increase but not such as will raise his income above £350. In other cases the ceiling is £225 per annum together with a like sum of £52 per annum.

Sub-s. (5).—The object of the higher scales of pension is to give special relief to pensioners who have special calls upon their income. In order, therefore, to establish dependency, it must first be shown that the person is wholly or mainly supported by the pensioner. If, however, such person has independent resources amounting to more than £52 a year, he will not be regarded as dependent. The definition of dependant now includes not only persons under sixteen but those over that age if still receiving full-time education or training, parents, children, uncles or aunts, brothers and sisters, nephews and nieces, grandchildren, step-fathers and stepmothers.

Sub-s. (7).—The scheme of increased pensions is mandatory in the cases of local authorities and police and fire authorities.

2. Special provisions as to increase of pensions payable under the Superannuation Acts. [659]

3. Supplementary and administrative provisions.—(1) The income of a pensioner shall be calculated for the purposes of section one of this Act and the Second Schedule thereto in accordance with the regulations made by the Treasury, and such regulations shall in particular provide :—

- (a) that the first fifty-two pounds a year of any income accruing to the pensioner otherwise than in respect of a pension specified in the First Schedule to this Act shall be disregarded : and
- (b) that the income of a married pensioner shall be deemed to include the income of the husband or wife of the pensioner, but that, save as aforesaid, the income of a pensioner shall not be deemed to include the income of any other person. [660]

(2) Where a pension specified in the First Schedule to this Act has been increased by reason of any addition, since the third day of September, nineteen hundred and thirty-nine, to the emoluments of any office or employment in respect of which, or on retirement from which, the pension is payable, and the pension authority are satisfied that the said addition was an addition by way of war bonus or other similar allowance, the increase authorised by the foregoing provisions of this Act shall be calculated as if the pension had not been increased by reason of the said addition, and :—

- (a) if the amount of the increase authorised by those provisions, when so calculated as aforesaid, is equal to or less than the amount by which the pension has been increased by reason of the said addition, the pension shall not be increased under those provisions : and
- (b) in any other case, the amount of the increase authorised by those provisions, after being so calculated as aforesaid, shall be reduced by the amount by which the pension has been increased by reason of the said addition. [661]

(3) Where the amount to which a pension may be increased under the foregoing provisions of this Act is less than the amount to which that pension

might have been increased if it had been smaller, the pension may be increased to the last mentioned amount. [662]

(4) In calculating, for the purposes of the Pensions (Increase) Acts, 1920 and 1924, the means of any pensioner or the amount of any pension, any increase for which provision is made by this Act shall be disregarded; and where the amount of any pension has been increased under the Pensions (Increase) Acts, 1920 and 1924, or by or under any other enactment, the increase for which provision is made by this Act shall, subject to the provisions of subsection (2) of this section, be calculated upon the amount of the pension as so increased. [663]

(5) The Treasury may by regulations :—

- (a) prescribe the manner in which claims for an increase of a pension under the provisions of section one of this Act are to be made, and the procedure to be followed in considering and determining any such claim :
- (b) prescribe the evidence required for the purpose of determining whether a pension may be increased in accordance with the provisions of the said section :
- (c) prescribe the manner in which the amount of any pension is to be calculated for any of the purposes of this Act in cases where any part thereof has been surrendered for the purpose of enabling the pension authority to grant a pension to the husband or wife of the pensioner and the manner in which, in any such case, the pension granted to the husband or wife of the pensioner is to be calculated for any such purpose as aforesaid :
- (d) provide that where a husband and wife are living apart, they shall, in such circumstances as may be prescribed by the regulations, be treated as unmarried persons for the purposes of this Act :
- (e) provide that, in relation to any class of pensions specified in the regulations, all or any of the functions of the pension authority under this Act shall be performed on behalf of the pension authority by such other authority as may be so specified. [664]

(6) All regulations made by the Treasury under subsections (1) and (5) of this section shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament, within the period of forty days beginning with the date on which any such regulations are laid before it, resolves that the regulations be annulled, the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [665]

(7) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under subsections (1) and (5) of this section shall not be deemed to be statutory rules to which that section applies. [666]

(8) Subject to the provisions of this Act and of any Order in Council made thereunder, any provision made by or under any enactment shall, in so far as it relates to the apportionment of the cost of a pension between two or more authorities, or to the manner in which a pension is to be paid, or to the proof of title to sums payable on account of a pension, or in so far as it prohibits or restricts the assignment or charging of a pension or its application towards the payment of debts, have effect in relation to any increase payable under this Act as it has effect in relation to the pension in respect of which the increase is payable; but save as aforesaid any such increase

shall not be treated as part of the pension for the purposes of any such provision as aforesaid. [667]

Sub-s. (1).—Under this subsection the Increase of Pensions (Calculation of Income) Regulations, 1944, *post*, have been made by the Treasury to provide how the income of pensioners is to be calculated. *Sub-s. (6), supra*, requires the Regulations to be laid before both Houses of Parliament and enables either House by resolution to annul them within forty days.

Sub-s. (1) (a).—This paragraph requires the Treasury to provide by Regulations that the first £52 of the pensioner's income other than a pension specified in the First Schedule to the Act shall be disregarded.

Sub-s. (1) (b).—In calculating the income of a married pensioner, the income of the husband and wife are to be aggregated. This is a normal feature of any statutory provision which provides for assistance calculated in relation to income. The paragraph expressly prohibits the taking into account of the income of any other person.

Sub-s. (2).—This subsection provides that that part of the pension which represents pension on bonus will be set against any increase for which the pensioner is eligible under the Act.

Sub-s. (4).—This subsection clears up a doubt which had arisen as to the effect of s. 8 (4), *post*, as originally drafted.

Sub-s. (5).—Power is given to the Treasury to make Regulations for dealing with administrative matters such as the making of claims, and the nature of evidence required for determining whether a pension should be increased. See the Increase of Pensions (General) Regulations, 1944, *post*.

Sub-s. (7).—S. 1 (4) of the Rules Publication Act, 1893, provides that the statutory rules to which the section applies are (*inter alia*) those made in pursuance of any Act of Parliament which directs the statutory rules to be laid before Parliament, and requires forty days' notice to be given of statutory rules and orders to which it applies. In modern legislation its application, as here, is usually excluded.

Sub-s. (8).—This subsection secures that certain rights of the pensioner and of the pension authority attach to the increase in pension in the same way as they attach to the original pension.

4. Extension of provisions of section one.—(1) His Majesty may by Order in Council direct that this Act shall have effect in relation to any such pensions as are hereinafter mentioned, that is to say :—

- (a) pensions (not being pensions specified in Part II of the First Schedule to this Act) which are payable under any enactment by local authorities, whether out of superannuation funds or otherwise :
- (b) pensions payable in respect of service as a probation officer or in respect of service under any insurance committee appointed under the National Health Insurance Act, 1936 (including a committee formed by a combination of insurance committees under section ninety-four of that Act) :

as if those pensions were specified in Part II of the said First Schedule. [668]

(2) Any Order in Council made under this section may include such incidental, consequential and supplemental provisions as appear to His Majesty to be expedient, and may in particular make provision for securing that the cost of increasing the pensions to which the Order in Council relates shall be borne by the appropriate authority. [669]

(3) Any such Order in Council may be varied or revoked by a further Order in Council made by His Majesty. [670]

(4) Before any Order proposed to be made under this section is submitted to His Majesty in Council a draft thereof shall be laid before Parliament, and the Order shall not be so submitted unless an Address is presented to His Majesty by each House of Parliament praying that the Order be made. [671]

Object of section.—Power is given by this section to extend the scheme by Order in Council to cover certain classes of pensioners analogous to local government pensioners, such as probation officers or employees of Insurance Committees appointed under the National Health Insurance Act, 1936. Under *sub-s. (4), supra*, there is a constitutional safeguard imposed on the power to make such Orders, *viz.*, that the draft Order shall be laid before Parliament, and will not be submitted to His Majesty in Council until an affirmative resolution in the form of an Address has been passed by both Houses.

Under this section has been made the Pensions (Increase) Act (Extension) Order, 1944, *post*.

Local Authority.—See definition in s. 8 (3), *post*.

Sub-s. (1).—The pensions specified in Part I of the First Schedule include those payable to teachers.

Sub-s. (2).—The pensions specified in para. 1 of Part II of the First Schedule are payable by local authorities solely in respect of local government service.

Pension authority.—See definition in s. 8 (3), *post*.

5. Financial provisions.—(1) Any additional expenditure incurred by reason of the provisions of this Act in respect of the pensions specified in Part I of the First Schedule to this Act shall be defrayed out of moneys provided by Parliament. [672]

(2) Where any such pension as is specified in paragraph 1 of Part II of the First Schedule to this Act is increased under the provisions of this Act, the cost of the increase shall be defrayed by the pension authority :

Provided that where the pension authority are not the last employing authority, the last employing authority shall reimburse the cost of the increase to the pension authority. [673]

(3) For the purposes of the last foregoing subsection, the expression “ the last employing authority ” means, in relation to any pension, the local authority to whom the services in respect of which the pension is payable were last rendered :

Provided that where the functions in connection with which those services were last rendered have been transferred to any other local authority, the said expression shall mean the local authority by whom those functions are for the time being exercisable. [674]

(4) Any question as to who are the last employing authority for the purposes of subsection (2) of this section shall, in default of agreement, be determined by the Minister of Health. [675]

6. Penalty for false statements, etc.—Any person who, for the purpose of obtaining, either for himself or any other person, any sum payable by virtue of this Act, knowingly makes any false statement or false representation, shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine. [676]

7. Contains provisions as to increase of pensions of naval military and air force pensioners. [677]

8. Interpretation.—(1) In this Act the expression “ pension ” means any pension payable by way of periodical payments, and includes :—

(a) any allowance or other benefit payable (either in respect of the services of the recipient or in respect of the services of any other person) by virtue of any superannuation scheme, whether contained in any enactment or otherwise, including any superannuation scheme providing benefits in the case of injury or death ; and

(b) any compensation payable in respect of retirement from any office or employment in pursuance of the provisions of any enactment, any compensation payable in respect of the loss abolition or relinquishment of any office or employment occasioned by any alteration in the organisation of any department or service, or by any transfer or other reorganisation of the functions of local authorities, and any compensation payable in respect of any diminution in the emoluments of any office or employment which has been so occasioned as aforesaid :

Provided that the said expression does not include any gratuity and does not include any sum payable otherwise than by way of periodical payments, and accordingly the provisions of this Act shall not have effect with respect to any pension which has been commuted, and, where a part of any pension

has been commuted, those provisions shall not have effect with respect to that part thereof. [678]

(2) For the purposes of this Act, a pensioner shall be treated as unmarried unless the husband or wife of the pensioner is alive. [679]

(3) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“Enactment” includes any enactment in a local Act and any provisional order confirmed by Parliament :

“Local authority” has the meaning assigned to it by section forty of the Local Government Superannuation Act, 1937 :

“Pension authority” means, in relation to any pension, the authority by whom the pension is payable. [680]

(4) References in this Act to any enactment shall be construed as references to that enactment as amended by or under any subsequent enactment, other than this Act. [681]

(5) Nothing in this Act shall authorise the increase of any pension in respect of any period after the expiry of this Act. [682]

Local authority.—This term is defined by s. 40 of the Local Government Superannuation Act, 1937, as “the council of a county, county borough, metropolitan borough or county district, the common council of the City of London, and any other local authority within the meaning of the Local Loans Act, 1875, and includes a joint committee established by a combination scheme, and any other joint committee appointed under an Act, or a statutory order or statutory scheme, if all the constituent authorities are such local authorities as aforesaid.”

Sub-s. (5).—The Act is limited to expire on December 31, 1945 (s. 10 (2), *post*).

9. Application to Scotland.—[683]

10. Short title, expiry and extent.—(1) This Act may be cited as the Pensions (Increase) Act, 1944. [684]

(2) This Act shall continue in force for the period ending with the thirty-first day of December, nineteen hundred and forty-five, and shall then expire :

Provided that upon the expiry of this Act subsection (2) of section thirty-eight of the Interpretation Act, 1889 (which relates to the effect of repeals) shall have effect as if this Act had then been repealed. [685]

(3) (Application to Northern Ireland.) [686]

SCHEDULES

Sections 1, 3, 4 and 5.

FIRST SCHEDULE

PENSIONS WHICH MAY BE INCREASED UNDER THIS ACT

PART I

1. A pension payable under the Superannuation Acts, 1834 to 1943.
2. A pension payable under the Elementary School Teachers (Superannuation) Acts, 1898 to 1912.
3. A pension payable under the Teachers (Superannuation) Acts, 1918 to 1939, not being a pension payable under paragraph (b) of subsection (3) of section fourteen of the Teachers (Superannuation) Act, 1925.
4. A pension payable under the enactments relating to the pensions of the Royal Irish Constabulary.
5. A pension payable under section twenty-nine of the Finance Act, 1932.

PART II

1. A pension payable by any local authority solely in respect of local government service.

For the purposes of this paragraph, the expression "local government service" means service under any local authority, any service which, by virtue of section two or section three of the Local Government (Emergency Provisions) Act, 1916, or by virtue of subsection (3) of section twelve of the Local Government Superannuation Act, 1937, or by virtue of the Local Government Staffs (War Service) Act, 1939, is, for superannuation purposes, treated as service under a local authority, and any service which, by virtue of subsection (1) of section one of the Local Government Superannuation Act, 1939, is to be treated as service for the purposes of the Local Government Superannuation Act, 1937; and the said expression includes any such service as aforesaid notwithstanding that the local authority concerned have ceased to exist.

2. A pension payable by any police authority, as defined by the Third Schedule to the Police Pensions Act, 1921, in the exercise of their functions as such an authority.

3. A pension payable by any local authority in respect of service as a professional fireman as defined by the Fire Brigade Pensions Act, 1925, or in respect of any service which, by or under any enactment, is treated as approved service in a fire brigade.

4. Any such pension as is specified in paragraph (b) of subsection (1) of section eight of this Act, being a pension payable by a local authority. [687]

Pension payable by local authority.—This includes a pension payable to persons who are paid remuneration out of a lump sum put at the disposal of an officer of the local council. In the case of some persons, their entire service is remunerated by a lump sum. In certain conditions, they may become eligible for pensions and, if they satisfy the general conditions of the Act, may be brought thereunder.

SECOND SCHEDULE

Sections 1 and 3.

AUTHORISED INCREASES OF CERTAIN PENSIONS

1. In this Schedule the expression "authorised increase" means an increase of a pension authorised by the provisions of section one of this Act and the expression "service pension" means a pension granted, under any Order in Council, Royal Warrant, order of His Majesty, or regulations of the Air Council, in respect of service in His Majesty's naval, military or air forces, whether that service has been rendered by the pensioner or by any other person.

2. Where the pensioner is married or has at least one dependant, then, subject to the provisions of this Schedule :—

- (a) if the pension does not exceed one hundred pounds a year, the authorised increase shall be thirty per cent. of the amount of the pension :
- (b) if the pension exceeds one hundred pounds a year but does not exceed two hundred pounds a year, the authorised increase shall be twenty-five per cent. of the amount of the pension : and
- (c) if the pension exceeds two hundred pounds a year, the authorised increase shall be twenty per cent. of the amount of the pension.

3. Where the pensioner is unmarried and has no dependants then, subject to the provisions of this Schedule :—

- (a) if the pension does not exceed seventy-five pounds a year, the authorised increase shall be thirty per cent. of the amount of the pension :
- (b) if the pension exceeds seventy-five pounds a year but does not exceed one hundred and fifty pounds a year, the authorised increase shall be twenty-five per cent. of the amount of the pension : and
- (c) if the pension exceeds one hundred and fifty pounds a year, the authorised increase shall be twenty per cent. of the amount of the pension.

4. The authorised increase of a pension shall not exceed the amount which is necessary to increase the income of the pensioner :—

- (a) if he is married, or has at least one dependant, to three hundred pounds a year : and
- (b) in any other case, to two hundred and twenty-five pounds a year.

5. Where a person is in receipt of more than one pension specified in the First Schedule to this Act, the provisions of the last foregoing paragraph shall not have

effect with respect to those pensions, but the authorised increases thereof shall not in the aggregate exceed the amount specified in that paragraph ; and any amount by which the authorised increases of the pensions are reduced by reason of the provisions of this paragraph shall be apportioned between the pensions in the proportions which they bear to one another.

6. Where a person is in receipt of any pension specified in the First Schedule to this Act, and the husband or wife of that person is also in receipt of any pension so specified, the provisions of the last two foregoing paragraphs shall not have effect with respect to those pensions, but the authorised increases thereof shall not in the aggregate exceed the amount specified in paragraph 4 of this Schedule ; and any amount by which the authorised increases of the pensions are reduced by reason of the provisions of this paragraph shall be apportioned between the pensions in the proportions which they bear to one another.

7. For the purpose of determining the percentage by reference to which the authorised increase of a pension specified in the First Schedule to this Act is to be calculated, there shall be aggregated with that pension :—

(a) where the pensioner is in receipt of any other pension so specified, that other pension : and

(b) where the pensioner is in receipt of a service pension, that service pension.

8. A service pension shall be disregarded for the purposes of the last foregoing paragraph if :—

(a) the pension has been granted solely on account of death or disablement which is attributable to service in His Majesty's naval, military or air forces : or

(b) the pension has been granted partly on account of death or disablement which is attributable to such service, and no specific part of the pension is referable to the death or disablement :

and where any service pension has been granted partly on account of death or disablement which is attributable to service in His Majesty's naval, military or air forces and a specific part of the pension is referable to the death or disablement, the pension shall, for the purposes of the last foregoing paragraph, be deemed to be reduced by the amount of that part.

For the purpose of this paragraph, the death or disablement of any person shall be treated as attributable to service in His Majesty's naval, military or air forces, if it is wholly or partly due to any wound, injury or disease which has been caused or aggravated by such service.

9. Where a woman is in receipt of a pension specified in the First Schedule to this Act which is payable in respect of the service of her deceased husband, and any person under the age of sixteen years who is dependent upon her is also in receipt of a pension so specified which is payable in respect of those services, then, without prejudice to the provisions of paragraph 7 of this Schedule, each of the pensions shall, for the purpose of determining the percentage by reference to which the authorised increase thereof is to be calculated, be deemed to be of an amount equal to the aggregate amount of both the pensions.

10. Where under the provisions of any enactment or other instrument for the time being in force a pension is not payable to the pensioner, but is payable to some other person, the pensioner shall, for the purposes of this Schedule, be deemed to be in receipt thereof. [688]

ORDERS, CIRCULARS AND MEMORANDA

THE INCREASE OF PENSIONS (GENERAL) REGULATIONS, 1944

S. R. & O., 1944, No. 694

June 16, 1944

The Lords Commissioners of His Majesty's Treasury, in pursuance of Their powers under subsection (5) of Section 3 of the Pensions (Increase)

Act, 1944 (hereinafter referred to as "the Act") and of all other powers enabling them in that behalf, hereby make the following Regulations :—

1. These Regulations may be cited as the Increase of Pensions (General) Regulations, 1944. [689]

2.—(1) In these Regulations :

- (a) the expression "dependant" has the meaning assigned to it in Section 1 (5) of the Act,
- (b) the expression "income", in relation to any person, means income of that person calculated in accordance with Regulations made by the Treasury under Section 3 (1) of the Act ; and
- (c) other expressions which are defined in the Act or in Regulations made by the Treasury under Section 3 (1) of the Act have the same meanings as in the Act or in those Regulations, as the case may be.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [690]

3.—(1) An application for an increase of pension under the Act shall be made to the Authority from whom payment of the pension is received.

(2) An application by a pensioner under the age of seventeen years shall be made on his behalf by the person who appears to the Pension Authority to have control over the pensioner. [691]

4. An application by a pensioner who at the date of the making of these Regulations fulfils the conditions prescribed in Section 1 of the Act and the Second Schedule thereto (hereinafter referred to as "the prescribed conditions") or who has fulfilled the prescribed conditions for any period between the first day of January, 1944, and the date of these Regulations shall be made as soon as practicable. In the case of a pensioner who hereafter fulfils the prescribed conditions, the application shall be made not more than three months before, or as soon as may be after, the prescribed conditions are fulfilled. [692]

5.—(1) Every application shall be accompanied by a Declaration by the pensioner :—

- (a) in the case of a pensioner who has no income apart from the pension in respect of which the increase is claimed, in the form of Declaration A set out in the First Schedule hereto or in a form substantially to the like effect, and
- (b) in the case of any other pensioner, in the form of Declaration B set out in the First Schedule hereto or in a form substantially to the like effect.

(2) Every application by a pensioner who has a dependant shall also be accompanied by a Declaration by the dependant in the form of Declaration C set out in the First Schedule hereto or in a form substantially to the like effect.

(3) Every such Declaration shall be subscribed before and attested by one of the persons described in the Second Schedule hereto.

(4) Every Declaration which is hereby required to be made by a child under the age of seventeen years shall be made on his behalf by the person who appears to the Pension Authority to have control over the child. [693]

6.—(1) The statements in any such Declaration as to the amounts of income shall be made with reference to the income of the basic period.

(2) The basic period shall be

- (a) in the case of a pensioner who is entitled to an increase of pension under the Act as from the 1st day of January, 1944, and of any dependant of his, the period of twelve months ending on the 31st day of December, 1943, and

- (b) in the case of a pensioner who is entitled to an increase of pension under the Act as from a later date and of any dependant of his, the period of twelve months ending on the day before that later date.

(3) Other statements in any such Declaration shall be made by reference to the circumstances existing at the date of the Declaration in question.

(4) A pensioner shall submit to the Pension Authority with the Declaration required to be made by him as aforesaid particulars of any events of the kinds mentioned in Regulation 8 which occurred between the end of the basic period and the date of his Declaration. [694]

7.—(1) The amount of any increase of pension shall be determined by reference to the income during the basic period but the Pension Authority shall take into consideration, as from the appropriate date, any reduction of income or any increase of income during or subsequent to the basic period.

(2) Where, in pursuance of an application, an increase of pension is granted, the increase shall remain in force until the 31st day of December, 1945 : Provided that, as from the appropriate date, the increase shall cease or shall be subject to such adjustment, if any, as the case may require if in the meantime

- (a) the pensioner dies, or
- (b) there occurs any such event as is mentioned in Regulation 8, or
- (c) the pensioner ceases for any other reason to fulfil the prescribed conditions. [695]

8. Any pensioner to whom an increase of pension has been granted shall notify the Pension Authority immediately on the occurrence of any of the following events, quoting the number of his Pension Form :—

- (a) the marriage, divorce or re-marriage of the pensioner ;
- (b) the separation of the pensioner from his wife or her husband for a period of a year ;
- (c) the death of the wife or husband of the pensioner ;
- (d) if the pensioner is unmarried
 - (i) the death of any dependant,
 - (ii) the attainment of the age of sixteen years by any dependant,
 - (iii) a person's ceasing to be a dependant of the pensioner,
 - (iv) a person's becoming a dependant of the pensioner ;
- (e) any increase or reduction in the income of the pensioner or the pensioner's wife or husband from any source (other than casual earnings) by which
 - (i) if the pensioner is married the total income of both husband and wife is increased to a rate above, or reduced to a rate below, £300 a year, or
 - (ii) if the pensioner is unmarried and has no dependant, his total income is increased to a rate above, or reduced to a rate below, £225 a year, or
 - (iii) if the pensioner is unmarried and has a dependant, his total income is increased to a rate above, or reduced to a rate below, £300 a year ;

the total income in any of such cases to be reckoned as including any increase of pension granted under the Act and excluding the first £52 a year of any income accruing to the pensioner otherwise than in respect of a pension specified in the First Schedule to the Act ;

- (f) any increase or reduction in the income of any dependant of his from any source (excluding income received from him or, in the case of a dependant who is under the age of sixteen years or, if over that age, is receiving full-time instruction in any educational establishment or undergoing training for any trade, profession or vocation, from a scholarship or other educational endowment) by which the total income of the dependant (excluding as aforesaid) exceeds, or falls below, £52 a year. [696]

9. The pensioner and any dependant of his shall, if required by the Pension Authority, produce :—

- (a) any medical evidence or any birth, death or marriage certificate or any other evidence relative to the fulfilment of the prescribed conditions which the Authority may consider necessary,
- (b) a certificate of an inspector of taxes as to the assessment for the purposes of income tax under Schedule A of any property owned by him or under Schedule B of any land occupied by him.
- (c) a certificate of an inspector of taxes in support of any claim to a deduction from the assessment for income tax purposes under Schedule A of any property owned by him,
- (d) documentary evidence in support of any claim for deduction from the income of the pensioner or his wife or her husband in respect of interest, ground-rent or (in Scotland) feu duty or ground annual or other annual charges,
- (e) any other documentary evidence relating to the income of the pensioner or his wife or her husband or any dependant of the pensioner which the Authority may consider necessary. [697]

10. Where the Pension Authority is satisfied by an Order of Court or by the certificate of a duly qualified medical practitioner that a pensioner or dependant is of unsound mind or, not being under the age of seventeen years, is otherwise incapable of making a Declaration in the prescribed form, it may accept a Declaration made on behalf of the pensioner or dependant by any person who appears to the Authority a proper person to represent the pensioner or dependant. [698]

11. Any question which may arise in connection with the fulfilment by a pensioner who is in receipt of a pension specified in Part I of the First Schedule to the Act of the prescribed conditions, or any of them, shall be determined by the Pension Authority, whose decision shall be final. [699]

12. Where part of a pension has been surrendered by a pensioner for the purpose of enabling the Pension Authority to grant a pension to the wife or husband of the pensioner under any arrangement whereby a pension is payable to the wife or husband of the pensioner during the pensioner's lifetime, then, for the purpose of determining the percentage by reference to which the authorised increase of each of those pensions is to be calculated under the Second Schedule to the Act and the percentage by reference to which the increase of each of those pensions is to be calculated under Section 2 of the Act, each of the pensions shall be deemed to be of an amount equal to the aggregate of the two pensions. [700]

13. Where it is shown to the satisfaction of the Pension Authority

- (a) that the pensioner and his wife, or her husband, are living apart, and
 - (b) that the separation has continued for not less than twelve months and is likely to be permanent, and
 - (c) that neither party is benefiting from the income of the other,
- the pensioner shall for the purposes of the Act be treated as unmarried. [701]

14.—(1) In relation to any pension granted under the Elementary School Teachers (Superannuation) Acts, 1898 to 1912 all the functions of the Treasury as the Pension Authority shall be performed by the Board of Education on behalf of the Treasury and accordingly, in relation to such a pension, references to the Pension Authority in these Regulations shall be construed as references to the Board of Education.

(2) Where in relation to any such pension as is specified in paragraph 1 of Part II of the First Schedule to the Act the Pension Authority is not the last employing authority the functions of the Pension Authority as to determining whether the pensioner fulfils, or has fulfilled, the prescribed conditions and, if so, the amount of the increase of the pension under the Act, shall be performed on behalf of the Pension Authority by the last employing authority unless the Pension Authority and the last employing authority agree that the said functions shall be performed by the Pension Authority. [702]

* * * * *

THE FIRST SCHEDULE

DECLARATION A.

Declaration by a Pensioner claiming an increase of pension under the Pensions (Increase) Act, 1944, where neither the Pensioner nor, if married (a), his wife or her husband has any income other than the pension.

NOTE.—Any person who, for the purpose of obtaining, either for himself or herself or for any other person, any sum payable by virtue of the Act, knowingly makes any false statement or false representation is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine.

Before signing this Declaration the NOTES below should be carefully studied.

1. (a) Are you married (a) or unmarried or a widower or widow? State which.
 - (b) If you are living apart from your wife/husband state
 - (i) the date from which the separation has continued ;
 - (ii) whether it is likely to be permanent ;
 - (iii) whether either you or your wife/husband is benefiting from the income of the other ;
 - (iv) the residence of your wife/husband
 - (c) If unmarried (a) or a widower or widow, state the names and addresses of all dependants and in each case the relationship between you and the dependant ; in the case of any child dependant, state date of birth
 2. State your age at the present date, giving date of birth
- I hereby declare that
- A. During the year ended
 - (i) I had no income of any of the kinds described in paragraph B.I of the Notes below except my one pension ;
 - (ii) my wife/husband had no income of any of those kinds ;
 - (iii) none of my dependants had a total income from every source other than income received from me or, in the case of a dependant who is under the age of 16 years or, if over that age, is receiving full-time instruction at any educational establishment or is undergoing training for any trade, profession or vocation, from a scholarship or other educational endowment) exceeding £52.

- B. To the best of my knowledge, information and belief the above statements are true.
- C. I understand that in calculating the income of any dependant I may deduct only the charges set out in paragraph B.III of the Notes below.

Signature of claimant

Residence.....

Pension or Establishment No. (if any)

Retiring rank of $\left\{ \begin{array}{c} \text{Pensioner} \\ \text{Pensioner's wife} \\ \text{husband} \end{array} \right\}$

Declared and subscribed before me this day of 19....

..... Name
 Residence
 Qualification.

DECLARATION B.

Declaration by a Pensioner claiming an increase of pension under the Pensions (Increase) Act, 1944, where the Pensioner or, if married (a), his wife or her husband has income apart from the pension.

NOTE.—Any person who, for the purpose of obtaining, either for himself or herself or for any other person, any sum payable by virtue of the Act, knowingly makes any false statement or false representation is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine.

Before signing this Declaration the NOTES below should be carefully studied.

1. (a) Are you married (a) or unmarried or a widower or widow? State which
- (b) If you are living apart from your wife/husband state
 - (i) the date from which the separation has continued ;
 - (ii) whether it is likely to be permanent ;
 - (iii) whether either you or your wife/husband is benefiting from the income of the other ;
 - (iv) the residence of your wife/husband.....
- (c) If unmarried (a) or a widower or widow, state the names and addresses of all dependants and in each case the relationship between you and the dependant ; in the case of any child dependant, state date of birth
2. State your age at the present date, giving date of birth
3. State your total income for the twelve months preceding the date from which you claim an increase of pension, received from all sources, as set out in full and in detail on this Form, including the amount of your original pension (including any increase given under former Acts)
4. If you are married (a) state the total income for the same twelve months of your husband or wife, received from all sources as set out on this Form

5. If you are unmarried (a) or a widower or widow but have any dependants, state, in the case of each dependant, whether the dependant has a total income from every source (other than income received from you or, in the case of a dependant who is under the age of 16, or, if over that age, is receiving full time instruction at any educational establishment or is undergoing training for any trade, profession or vocation, from a scholarship or other educational endowment) exceeding £52 a year

I declare that, to the best of my knowledge, information and belief, the above statements are true.

Signature of Claimant

Residence

Pension or Establishment No.

Retiring rank of { Pensioner
Pensioner's wife
husband }

Occupation

Name and address of Employer (if any)

Declared and subscribed before me this day of 19....

..... Name
..... Residence
..... Qualification

Detailed statement of Income (including, if married (a), income of wife/husband) (b) for the twelve months preceding the date as from which the increase of pension is payable.

NOTE.—The word “none” should be written in any of the spaces under the heading of which the claimant and his wife or her husband have no income.

Gross figures
before deduction
of Income Tax
to be given

- (1) Amount of original pension (including any increase given under former Acts) in respect of which the claim is made ;
- (2) Amount of other pensions, including Old Age, Contributory and Supplementary Pensions (if any), grants, allowances or annuities ; and give a description of same (c) ;
- (3) Income from land or house property or other buildings in Great Britain or Northern Ireland owned (d) by the pensioner (ascertained as in Notes B.I (3) and B.II), stating :—
 - (i) nature and situation of the property,
 - (ii) if owned (d) by the pensioner and occupied by him in whole or in part, the net annual value,

(a) See paragraph C of the Notes below.

(b) Strike out unnecessary words.

(c) The name and address of the Authority or Body by which paid should be stated in each case ; and as regards any Government Pension received by a pensioner, state if paid by the United Kingdom Government or a Dominion or Colonial Government or the Northern Ireland Government or the Government of India, as the case may be.

(d) This includes property held on a ground lease. See paragraph B.I (3) of the Notes below.

Gross figures
before deduction
of Income Tax
to be given

- (iii) if owned (*d*) by the pensioner and not occupied by him at all but let in whole or in part unfurnished to a tenant or tenants, the net annual value or rent per annum receivable by pensioner in respect of all such lettings, whichever is the less (*e*) ;
- (4) Income from land or house property or other buildings situate elsewhere (ascertained as in Notes B.I (3) and B.II below), stating:—
- (i) nature and situation of the property,
 - (ii) if owned (*d*) by the pensioner and occupied by him in whole or in part, the net annual value.
 - (iii) if owned (*d*) by the pensioner and not occupied by him at all but let in whole or in part unfurnished to a tenant or tenants, the net annual value or rent per annum receivable by pensioner in respect of all such lettings, whichever is the less (*e*),
 - (iv) the basis on which net annual value stated has been estimated ;
- (5) Interest or dividends on stocks, shares, mortgages or other securities or on moneys on deposit. Full particulars should be given, including the name of each security, amount held and the rate of interest or dividend : (*f*)
- (6) Profits or wages of any trade, business (including farming or husbandry), profession, office, employment or vocation, including overtime pay and bonus, if any, and the value of board, lodging, fuel, light or other benefits (if any) whether receivable in cash or in kind ; giving particulars, and stating where such trade, business, etc. is carried on
- (7) Any other net receipts by way of income from other sources (including profits of letting furnished houses or other premises and excess rents from letting unfurnished houses or other premises in respect of which the pensioner is chargeable under Sections 15 or 16 of the Finance Act, 1940), stating the yearly value of such receipts, and giving particulars of the same ..

Total

CHARGES ON INCOME

Gross figures
before deduction
of Income Tax

Ground rent or (in Scotland) feu duty or ground annual

Interest on mortgage, bank overdraft or other loan

Other annual charges (if any)

Give full particulars of any such charges, and state name and address of payee

Total Charges

Total, less Charges (g)

(*d*) This includes property held on a ground lease. See Paragraph B.I. (3) of the Notes below

(*e*) The excess rent (if any) on such lettings in respect of which the pensioner is chargeable under ss. 15 or 16 of the Finance Act, 1940, should be stated in Item (7).

(*f*) If necessary a separate sheet may be used.

(*g*) This amount should agree with the amount stated in the Declaration overleaf.

DECLARATION C.

Declaration by a Dependant of a Pensioner claiming an increase of pension under the Pensions (Increase) Act, 1944

NOTE.—Any person who, for the purpose of obtaining, either for himself or herself or for any other person, any sum payable by virtue of the Act, knowingly makes any false statement or false representation is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds or to both such imprisonment and such fine.

Before signing this Declaration the NOTES below should be carefully studied.

I hereby declare that

A. During the year ended my total income
from all sources (excluding all income received from (a)
or from a scholarship or other educational endowment (b)) did not exceed
£52, and

B. To the best of my knowledge, information and belief the above statement is true.

C. I understand that

- (i) in calculating my income I must include all the various kinds of income set out in paragraph B.I (2) to (6) of the Notes below, and
- (ii) I may deduct from such income only the charges set out in paragraph B.III of the Notes below, and
- (iii) I may be required, if the Pension Authority sees fit, to give details showing that my income (excluding as aforesaid) did not exceed £52.

Signature of dependant.....

Residence.....

Occupation

Name and address of employer (if any).....

Declared and subscribed before me this day of 19 ..

.....Name

.....Residence

.....Qualification.

NOTES

In these Notes the expression “the pensioner”, in relation to a Declaration by a pensioner, means the pensioner or the wife or husband of the pensioner, and, in relation to a Declaration by a dependant, means the dependant.

A.—The above Declarations must be subscribed before and attested by one of the persons specified as qualified to attest in the Second Schedule to the Increase of Pensions (General) Regulations 1944. (The List of qualified persons is repeated in the appendix to the Instructions to Applicants.)

B.—In accordance with the provisions of the Increase of Pensions (Calculation of Income) Regulations 1944—

I.—The following are the kinds of income which must be included in these Declarations :—

- (1) Original pension, including any increase under former Acts, in respect of which the claim is made. (This applies only in Declaration B.)
- (2) Other pensions including Old Age, Contributory and Supplementary Pensions (if any), grants, allowances or annuities.
- (3) (a) in the case of land or house property or other buildings owned by the pensioner and occupied by him in whole or in part, the net annual value (ascertained in accordance with the provisions of paragraph II below) of the land or house property or other buildings ; and

(a) Here state the name of the pensioner on whom you are dependent.

(b) This applies only to dependants under sixteen years of age or, if over that age, receiving full-time instruction in any educational establishment or undergoing training for any trade, profession or vocation.

- (b) in the case of land or house property or other buildings owned by the pensioner and not occupied by him at all but let in whole or in part unfurnished to a tenant or tenants, the net annual value (ascertained as aforesaid) of the land or house property or other buildings or the rent per annum receivable by the pensioner in respect of all such lettings, whichever is the less (plus the excess rent (if any) to be included under sub-paragraph (6) below).

For the purposes of this sub-paragraph (3) land or house property or other buildings held by a pensioner on lease shall be deemed to be owned by him, if, and only if, the lease is a ground lease, that is to say, a lease at a rent (or, where the rent varies, at a maximum rent) which does not substantially exceed the rent which a tenant might reasonably have been expected, at the commencement of the term created by the lease, to pay for the land comprised in the lease, excluding any buildings, for a term equal to the term created by the lease.

- (4) Interest or dividends on stocks, shares, mortgages or other securities or on moneys on deposit.
- (5) Profits or wages of any trade, business (including farming or husbandry), profession, office, employment or vocation, including overtime pay and bonus (if any) and the value of board, lodging, fuel, light or other benefits (if any) whether receivable in cash or in kind.
- (6) The annual value of any net receipts by way of income from other sources (including profits of letting furnished houses or other premises and excess rents from letting unfurnished houses or other premises in respect of which the pensioner is chargeable under Sections 15 or 16 of the Finance Act 1940).

II. (1) The net annual value of any land or house property or other buildings situate in Great Britain or Northern Ireland shall be taken to be the annual value as assessed for the purposes of Income Tax under Schedule A, less

- (a) any sum by which the assessment is reduced for the purposes of collection in respect of the cost of repairs ;
- (b) any further sum on which Income Tax could be reclaimed by the pensioner under the provisions of the Income Tax Acts on the ground that the cost to him or her, on the average of the five preceding years, of the maintenance, repairs, insurance and management of the property has exceeded the amount of the reduction under the preceding sub-paragraph ;
- (c) any sums allowable in respect of empty property, land tax, drainage rates, lost rents, tithe redemption annuity and other allowances of a like nature and (in Scotland) owner's rates and (in Northern Ireland) landlord's rates and certain annuities.

(Particulars of assessments under Schedule A may be obtained on application to the local Inspector of Taxes.)

(2) The net annual value of any land or house property or other buildings situate elsewhere shall be calculated on a basis as near as practicable to that specified in paragraph (1).

III. Deductions may be made from income calculated as in I and II above in respect of

Ground rent or (in Scotland) feu duty or ground annual ;

Interest on mortgage, bank overdraft or other loan ;

Any other annual charges payable out of or secured on the property or income of the person in question. The nature of such other charges should be explained.

No deduction may be made in respect of

- (i) rates or taxes or any premium on a policy of insurance, except in so far as provided by B.II above, or
- (ii) any instalment of the repayment of the principal of a loan, or
- (iii) any charge which may also be allowed as a deduction in calculating the income under B.II above, or
- (iv) any bank interest which has already been allowed as a deduction in calculating profits.

- C.—A pensioner shall be treated as unmarried if it is shown to the satisfaction of the Pension Authority
- (a) that the pensioner and his wife, or her husband, are living apart, and
 - (b) that the separation has continued for not less than twelve months and is likely to be permanent, and
 - (c) that neither party is benefiting from the income of the other.
- D.—The pensioner shall not make any deduction from his total income in respect of the first £52 of such income which has to be disregarded. This deduction will be made by the Pension Authority. [703]

THE SECOND SCHEDULE

Persons before whom the declarations may be subscribed :—

- (a) In any part of the world :—
 - (1) Officers on the active or half-pay or pension lists of any of His Majesty's Naval, Military or Air Forces.
 - (2) Persons receiving salaries of not less than £300 a year as Officers of the Household of His Majesty, of Princes of the Royal Blood, or of Governors or Acting Governors of any part of His Majesty's Dominions.
 - (3) Persons in receipt of a salary or allowance of not less than £300 a year from His Majesty's Civil List.
 - (4) Persons who are on the active or pension list of the Permanent Civil Service of the Crown who are or were at the date of retirement in receipt of a salary of not less than £200 a year and on a scale rising to not less than £300 a year.
 - (5) Managers of branches of British Banks.
 - (6) Where none of the above are available, any person specifically authorised by the Treasury.
- (b) In the British Empire :—
 - (7) Magistrates and Justices of the Peace.
 - (8) Barristers-at-law, advocates, commissioners for oaths or duly qualified solicitors.
 - (9) Ministers of religion habitually officiating at a place of worship within 10 miles of the place where the pensioner resides for the time being. (The denomination and the address of the place of worship to be given on the form of attestation.)
 - (10) Physicians or Surgeons registered as such under the law of the country, and regularly practising within 10 miles of the place where the pensioner resides for the time being.
 - (11) Managers, Secretaries, Chief Cashiers and Accountants of banks registered under the law of the country and other officials of such banks who are authorised by their banks to sign documents on their behalf, and officials of such banks for the time being in charge of branch banks. (The qualification of the official and the name of the bank or branch bank to be given on the form of attestation.)
 - (12) Postmasters, Postmistresses and other officers, actually in charge of any Head, Branch or Sub-Post Office, and at Head Post Offices the officer next in command to the Postmaster. (The name of the Post Office to be given on the form of attestation.)
 - (13) The following officers of Savings Banks registered under Act of Parliament, viz. : Actuaries, Managers, Directors, Secretaries, Chief Cashiers, Accountants and officials for the time being in charge of branch banks. (The qualification of the official and the name of the bank or branch bank to be given on the form of attestation.)
 - (14) Police Officers not below the rank of Sergeant (rank and force to be given on the form of attestation, and in the case of a sergeant, his number).

(c) In the United Kingdom :—

- (15) Officers appointed to examine vouchers for non-effective payments in the offices of the Commissioners of Customs and Excise, and Inland Revenue, Postmaster-General, Paymaster-General, the King's and Lord Treasurer's Remembrancer.
- (16) Head Teachers and pensioned Head Teachers of Public, Elementary and Secondary Schools. (The name of the school to be given on the form of attestation.)
- (17) Secretaries of Friendly Societies registered under the Friendly Societies Acts.
- (18) The employer for the time being of any person entitled to a grant in respect of service in His Majesty's Naval, Military or Air Forces, in respect of such person.
- (19) Notaries Public.
- (20) Chief Regional Officers, Deputy-Regional Officers, and officers in charge of whole-time offices of the Ministry of Pensions.
- (21) Members of War Pensions Committees and of Advisory Committees appointed by the Minister of Pensions.
- (22) Duly accredited voluntary workers appointed under the War Pensions Acts.
- (23) The Clerk of any Local Authority and any principal officer of the Local Authority designated by the Authority for the purpose.

(d) In foreign countries :—

- (24) British Diplomatic or Consular Officers empowered by law to administer oaths.
- (25) Notaries Public and other persons competent by the law of the country to administer such declarations. (The law must be quoted sufficiently for verification.)
- (26) Ministers of Religion duly licensed by Ecclesiastical Authority in the United Kingdom to officiate as chaplains in the place where they attest. [704]

THE INCREASE OF PENSIONS (CALCULATION OF INCOME) REGULATIONS, 1944

S. R. & O., 1944, No. 695

June 16, 1944

The Lords Commissioners of His Majesty's Treasury, in pursuance of Their powers under subsection (1) of Section 3 of the Pensions (Increase) Act, 1944 (hereinafter referred to as "the Act") and of all other powers enabling them in that behalf, hereby make the following Regulations :—

1.—(1) These Regulations may be cited as the Increase of Pensions (Calculation of Income) Regulations, 1944.

(2) The Interpretation Act, 1889, applies to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [705]

2.—(1) The income of a pensioner shall for the purposes of Section 1 of the Act and the Second Schedule thereto include—

- (a) the pension in respect of which the increase is claimed ;
- (b) any other pension, grant, allowance or annuity (including Old Age, Contributory and Supplementary Pensions) received by the pensioner ;

- (c) (i) in the case of land or house property or other buildings owned by the pensioner and occupied by him in whole or in part, the net annual value (ascertained in accordance with the provisions of Regulation 3) of the land or house property or other buildings ; and
 - (ii) in the case of land or house property or other buildings owned by the pensioner and not occupied by him at all but let in whole or in part unfurnished to a tenant or tenants, the net annual value (ascertained as aforesaid) of the land or house property or other buildings or the rent per annum receivable by the pensioner in respect of all such lettings, whichever is the less (plus the excess (if any) to be included under sub-paragraph (f)) ;
- (d) interest or dividends on stocks, shares, mortgages or other securities or on moneys on deposit ;
- (e) profits or wages of any trade, business (including farming or husbandry), profession, office, employment or vocation, including overtime pay and bonus (if any) and the value of board, lodging, fuel, light or other benefits (if any) whether receivable in cash or in kind ;
- (f) the annual value of any net receipts by way of income from other sources (including profits of letting furnished houses or other premises and excess rents from letting unfurnished houses or other premises in respect of which the pensioner is chargeable under Sections 15 or 16 of the Finance Act, 1940) ;

Provided that the first fifty-two pounds a year of any income accruing to the pensioner otherwise than in respect of a pension specified in the First Schedule to the Act shall be disregarded.

(2) For the purposes of sub-paragraph (c) of paragraph (1) of this Regulation land or house property or other buildings held by a pensioner on lease shall be deemed to be owned by him if, and only if, the lease is a ground lease, that is to say, a lease at a rent (or, where the rent varies, at a maximum rent) which does not substantially exceed the rent which a tenant might reasonably have been expected, at the commencement of the term created by the lease, to pay for the land comprised in the lease, excluding any buildings, for a term equal to the term created by the lease.

(3) The income of a married pensioner shall for the purposes aforesaid be deemed to include the income (calculated in accordance with these Regulations) of the husband or wife of the pensioner but, save as aforesaid, the income of a pensioner shall not be deemed to include the income of any other person. [706]

3. For the purpose of determining the income of a pensioner and of the wife or husband of a married pensioner :—

- (1) The net annual value of any land or house property or other buildings situate in Great Britain or Northern Ireland shall be taken to be the annual value as assessed for the purposes of Income Tax under Schedule A, less—
 - (a) any sum by which the assessment is reduced for the purposes of collection in respect of the cost of repairs ;
 - (b) any further sum on which Income Tax could be reclaimed by the pensioner, or the wife or husband of the pensioner, under the provisions of the Income Tax Acts on the ground that the cost to him or her, on the average of the five preceding years, of the maintenance, repairs, insurance and management of the property has exceeded the amount of the reduction under the preceding sub-paragraph (a) ;

(c) any sums allowable in respect of empty property, land tax, drainage rates, lost rents, tithe redemption annuity and other allowances of a like nature and (in Scotland) owners rates and (in Northern Ireland) landlord's rates and certain annuities.

(2) The net annual value of any land or house property or other buildings situate elsewhere shall be calculated on a basis as near as practicable to that specified in paragraph (1) of this Regulation. [707]

4. From the income of the pensioner and the pensioner's wife or husband, other than a service pension or a pension specified in the First Schedule to the Act, a deduction shall be allowed in respect of the amount of interest, ground rent or (in Scotland) feu duty or ground annual, or other annual charges payable out of, or secured on, his or her property or income :

Provided that no deduction shall be allowed in respect of

- (i) rates or taxes or any premium on a policy of insurance, except in so far as provided by Regulation 3, or
- (ii) any instalment of the repayment of the principal of a loan, or
- (iii) any charge which may also be allowed as a deduction in calculating the income under Regulation 3, or
- (iv) any bank interest which has already been allowed as a deduction in calculating profits. [708]

* * * *

THE PENSIONS (INCREASE) ACT (EXTENSION) ORDER, 1944

S. R. & O., 1944, No. 934

August 10, 1944

His Majesty in pursuance of Section 4 of the Pensions (Increase) Act, 1944, and of all other powers enabling Him in that behalf is pleased by and with the advice of His Privy Council to direct, and it is hereby directed, as follows :—

1. The Pensions (Increase) Act, 1944, shall have effect in relation to the pensions specified in the Schedule to this Order as if those pensions were specified in Part II of the First Schedule to the said Act. [709]

2.—(1) The pension authority in relation to a pension payable in respect of service as a probation officer shall be the probation committee by whom the pension is in fact paid or, in the case of a pension in respect of such service paid out of the metropolitan police fund, the Secretary of State.

(2) Any increase payable under the said Act in respect of any such pension shall be paid by the pension authority and shall be defrayed as expenses in respect of superannuation allowances to probation officers under Sections 5 and 9 of the Criminal Justice Act, 1925, by the local authority or out of the metropolitan police fund, as the case may be :

Provided that, where a probation officer was at the time of his retirement serving two or more probation committees and his salary was defrayed by two or more local authorities the cost of the increase in his pension shall be defrayed by those authorities and in the same proportion as his salary was at that time defrayed or, in the event of any question arising, in such manner as the Secretary of State may determine. [710]

3. This Order, in its application to Scotland, shall have effect as if Article 2 and paragraphs 2, 5, 6, 7 and 8 of the Schedule were omitted. [711]

4. This Order may be cited as the Pensions (Increase) Act (Extension) Order, 1944. [712]

* * * * *

SCHEDULE

1. A pension payable by any local authority under any enactment in respect of any period of service which includes a period of service in the employment of an officer of a local authority which, in accordance with a determination under sub-section (6) of Section 12 of the Local Government Superannuation Act, 1937, or, in Scotland, subsection (6) of Section 12 of the Local Government Superannuation (Scotland) Act, 1937, has been taken into account in reckoning non-contributing service or which, in accordance with the provisions of any other enactment, has been taken into account.

2. A pension payable by any local authority under any enactment in respect of any period of service which includes any period or periods of practice as a midwife which, by virtue of subsection (3) of Section 2 of the Midwives Act, 1936, may be or has been treated as a period of service during which the midwife made contributions to the appropriate superannuation fund.

3. Any other pension to which the pensioner became entitled on retirement from local government service payable by any local authority under any enactment in respect of service any part of which is not local government service.

4. A pension payable by any local authority under any enactment in respect of service as a registration officer as defined in Section 40 of the Local Government Superannuation Act, 1937, or, in Scotland, Section 34 of the Local Government Superannuation (Scotland) Act, 1937, as the case may be.

5. A pension payable by any local authority under any enactment in respect of service as an employee of the managers of a non-provided school.

6. A pension payable by any local authority under any enactment in respect of service as an employee of the governing body of any school or educational institution (other than a public elementary school) if the whole cost of maintaining the school or education institution, after deducting such part of the cost (if any) as is met by the governing body, falls to be met by the local authority.

7. A pension payable by any local authority under any enactment in respect of service as a justices clerk or as the employee of a justices clerk.

8. A pension payable in accordance with the provisions of the Probation Officers' Superannuation Rules, 1926 (as amended by the Probation Officers' Superannuation Scheme, 1937), in respect of service as a probation officer to whom those Rules apply.

9. A pension payable in respect of service under any insurance committee appointed under the National Health Insurance Act, 1936 (including a committee formed by a combination of insurance committees under Section 94 of that Act).

10. A pension to which an officer or servant in the employment of the Standing Joint Committee for the County of London became entitled on retirement payable by the London County Council under Section 34 of the London County Council (General Powers) Act, 1930. [713]

TEACHERS

See SPECIAL EDUCATION VOLUME.

THEATRES

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CASES

Theatres and other places of entertainment—Licence—Licence under local Act—Fun-fair—“ Theatre of other place of public entertainment ”—Barrow-in-Furness Corporation Act, 1868 (c. civ), s. 166—Barrow-in-Furness Corporation Extension and Amendment Act, 1872 (c. cxviii), s. 33.

By the Barrow-in-Furness Corporation Extension and Amendment Act, 1872, s. 33, it was enacted that “ no theatre or other place of public entertainment ” could be used as such without licence from the local authority and penalties were provided for breach of this enactment. This Act also incorporated the provisions of the Barrow-in-Furness Corporation Act, 1868, s. 166, which imposed penalties for the use without licence as a theatre of buildings, etc., for public entertainment to which admission could be obtained by payment of money. Informations for alleged offences under the Acts were laid by the town clerk against the managers or owners of “ fun-fairs,” places to which the public could obtain admission without payment, and where they could either remain as spectators without payment or make use of the automatic machines and other amusements by paying the appropriate fee. The respondents contended (i) that upon their true construction the Acts, if read together, only applied to places to which admission could be obtained by payment of money; (ii) that the *ejusdem generis* rule would apply to the phrase “ theatre or other place ” and fun-fairs would, therefore, not be included; (iii) that, apart from the *ejusdem generis* rule, fun-fairs were not places of public entertainments :—

Held : (i) the Act of 1872 was of wider scope than the Act of 1868, and included not only theatres, which charged an admission fee and for which a licence was actually required under the Theatres Act, 1843, but also “ other ” places “ of public entertainment.”

(ii) the *ejusdem generis* rule was not applicable;

(iii) a fun-fair is a “ place of public entertainment ” even though it might be said that, by operating the machines, the public provided their own entertainment.—ALLEN v. EMMERSON, [1944] K. B. 362; [1944] 1 All E. R. 344; 113 L. J. (K. B.) 216; 108 J. P. 220; 42 L. G. R. 134, D. C. [714]

Theatres—Licence—Conditions—Sunday opening—Cinema—“ No child under 16 shall be admitted ”—Whether ultra vires or unreasonable—Sunday Entertainments Act, 1932 (c. 51), s. 1—Defence (General) Regulations, reg. 42B.

The plaintiff was the licensee of a cinema situated in an area for which the defendants were the licensing authority. The competent military authority issued a certificate in accordance with the Defence (General) Regulations, reg. 42B, that it was desirable that cinemas in the area in question should be open on Sundays. Consequent upon this certificate the defendants, under the Sunday Entertainments Act, 1932, s. 1, as extended by the Defence (General) Regulations, reg. 42B, granted the plaintiff permission to give performances on Sundays provided that no child under the age of 16 should be admitted. The plaintiff contended (i) that the condition was *ultra vires* inasmuch as the defendants’ power to impose conditions was limited to those relating to the use of the premises and did not extend to conditions relating to public interest; and (ii) that the condition was invalid because it was unreasonable :—

Held : (i) the discretion of licensing authorities to impose such conditions as they shall think fit when granting Sunday permits under the Sunday Entertainments Act, 1932, s. 1, as modified by the Defence (General) Regulations, reg. 42B, is unlimited except that it must be reasonable.

(ii) in the circumstances the condition was not unreasonable.—*HARMAN v. BUTT*, [1944] K. B. 491; [1944] 1 All E. R. 558; 170 L. T. 355; 108 J. P. 229; 60 T. L. R. 341; 42 L. G. R. 158. [715]

TOWN AND COUNTRY PLANNING

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STATUTES

THE TOWN AND COUNTRY PLANNING ACT, 1944

(7 & 8 Geo, 6, c. 47)

PRELIMINARY NOTE

The effect of the Town and Country Planning Act, 1944, is :—

(1) to confer new powers on local planning authorities, local highway authorities and certain Ministers, for the purpose of securing that the redevelopment of war damaged areas shall take place as soon as practicable in accordance with the principles of good planning, and for this purpose makes provision for grants from the exchequer ;

(2) to confer new powers on local planning authorities, highway authorities, and certain Ministers for the purpose of securing that the redevelopment of areas of bad lay-out and obsolete development shall take place when practicable in accordance with the principles of good planning ;

(3) to amend the law relating to Town and Country Planning in a number of important respects ;

(4) to apply for the purposes of Part I of the Act, the general code relating to the compulsory purchase of land contained in the Lands Clauses Acts and Acquisition of Land (Assessment of Compensation) Act, 1919, subject to modifications and adaptations including provision for compulsory purchase orders providing for expedited completion.

(5) to provide for a limited period of time (five years from the commencement of the Act, *i.e.*, November 17, 1944), for compensation in respect of land purchased by a Government Department or a local or public authority, to be assessed by reference to prices current at March 31, 1939.

From the above it will be seen that one purpose of the Act is to deal with a very special problem, the planning and redevelopment of " blitzed " areas. At the same time the Act deals with another major problem, namely, that presented by areas of bad lay-out and obsolete development.

The redevelopment of larger areas, whether areas of extreme war damage (s. 1) or areas of bad lay-out and obsolete development (s. 9) involves :—

1. The preparation of a plan or planning proposals ;
2. The acquisition of land by agreement or compulsorily (ss. 2, 3, 4, 9, 10, 12, 14) ;
3. Compensation where land is acquired compulsorily (ss. 13, 14, 18) ;
4. In some cases the appropriation of land (ss. 14, 19) ;

5. Clearing of sites preparatory to development (s. 20) ;
6. Extinguishment of public highways (s. 23) ;
7. Extinguishment of private ways and easements and compensation therefor (ss. 22, 24) ;
8. Special arrangements with statutory undertakers regarding the removal of their apparatus, etc., and arrangements with the Postmaster-General regarding his apparatus (ss. 23, 25) ;
9. Rehousing of displaced persons in advance of displacements (s. 30) ;
10. Redevelopment by local planning authorities and by other persons (ss. 19, 20) ;
11. Disposal of land for purposes of redevelopment (s. 19) ;
12. The construction of new highways and the improvement of existing highways (s. 21) ;
13. In the case of the redevelopment of areas of extreme war damage in towns which were formerly over-populated and congested, the provision of new communities outside the area of the local planning authority to relocate population and industry (s. 12) ;
14. Many incidental and consequential matters.

All these matters are dealt with in Part I.

Part I also contains the provisions making amendments in Planning Law. Of these amendments the most important are the following :—

The power of the Minister under s. 6 (2) of the Town and Country Planning (Interim Development) Act, 1943 (36 Statutes 247) which enables the Minister to give directions requiring interim development authorities to furnish him with information is extended (s. 31 (2)).

An interim development authority or a responsible authority who wish to carry out development themselves for which anyone else would have to seek permission, are required to obtain the consent of the Minister unless regulations made by the Minister otherwise direct (s. 32 (1)).

For the purposes of s. 41 of the 1932 Act (25 Statutes 511) a responsible authority who carry on a statutory undertaking is to be deemed to consent to the application of the provisions of a planning scheme to any land belonging to them for the purpose of that undertaking unless and until they have given to the Minister notice in writing stating that they withhold the consent (s. 32 (4)).

Except as expressly provided the provisions of the Acts of 1932 and 1943, and of the 1944 Act relating to interim development applications and the revocation or modification of permission granted thereon are not to apply to an application by an interim development authority (s. 32 (6)).

Power to suspend planning schemes and reimpose interim development control is conferred on the Minister and a consequential amendment is made in s. 10 of the 1932 Act (25 Statutes 482).

Special provisions are made relating to interim development control in the case of statutory undertakers (ss. 34–37).

Provision is made for the exclusion of the permission to develop granted by an interim development order either in relation to the carrying out of development in any particular area or in relation to the carrying out of any particular development (s. 38).

The power conferred by s. 10 (8) of the 1932 Act (32 Statutes 484) to authorise, by an interim development order, the suspension of enactments contained in local Acts and of orders, byelaws, or regulations, is extended (s. 39 (1)) and applied to planning schemes (s. 39 (2)).

The purposes for which a joint committee may be established under ss. 3 and 4 of the 1932 Act (25 Statutes 473, 474) are specified more exactly (s. 40).

The exemption of agricultural buildings by virtue of s. 12 (3) of the 1932 Act (25 Statutes 486) from the provisions of a planning scheme with respect to buildings is removed (s. 41).

For the guidance of local authorities in the performance of functions under the 1932 and 1944 Acts in relation to buildings of special architectural or historic interest, the Minister is authorised to compile lists of such buildings or approve such lists compiled by other persons or bodies of persons and to amend any list so approved (s. 42). The powers of local authorities with respect to such buildings of special architectural or historic interest are extended (s. 43).

Any appeal under s. 12 (1) of the 1932 Act (25 Statutes 486) from a decision of the responsible authority as to the design or external appearance of buildings shall, if the scheme so provides, lie to the Minister instead of to a court of summary jurisdiction or a special tribunal (s. 44).

S. 19 (2) (ii) (c) of the 1932 Act (25 Statutes 494), as to the erection of new buildings on the site of existing building is to have effect in relation to any building destroyed or demolished (whether before or after the commencement of the Act), during the war period, as if for any reference therein to the period of two years after the destruction or demolition of the previous building, there were substituted a reference to the period ending two years after the expiration of the war period, or in the case of a scheme which comes into operation after the expiration of the war period, to the period ending two years after the date the scheme comes into operation, and the use of buildings the erection of which is so permitted is protected (s. 45).

Power is conferred to grant under planning schemes permission for development which is to have effect for a limited period only (s. 46).

Part II of the Act amends the law relating to compensation, not only where land is compulsorily acquired for the purposes of Part I of this Act, but in all cases where land is acquired by a Government Department or local or public authority under any enactment, by providing that compensation for an interest in land, for severance or other injurious affection, and for injurious affection due to the execution of works on land acquired, shall, for a limited period of time (five years from November 17, 1944) be assessed by reference to prices current at March 31, 1939 (s. 57), a supplement being authorised in the case of owner-occupiers (s. 58) and in respect of improvements carried out after March 31, 1939, but before the date of the service of the notice to treat (s. 59). Special provisions are also enacted with regard to the assessment of compensation for the purchase of land valued under the War Damage Act, 1943 (s. 61). The final section of this part (s. 62) makes provision with regard to the rate of interest where entry is made before the payment of compensation.

It will thus be seen that the Act is essentially a Redevelopment and Compensation Act. It is not required to be construed as one with the 1932 Act and is to be regarded as a major Town and Country Act containing a code complete in itself in so far as it relates to the redevelopment of areas. [716]

PART I

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Areas of extensive war damage : acquisition of land, and grants towards expenses of acquisition and clearing

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An Act to make provision for the acquisition and development of land for planning purposes ; for amending the law relating to town and country planning ; for assessing by reference to 1939 prices compensation payable in connection with the acquisition of land for public purposes, and as to the rate of interest thereon ; and for purposes connected with the matters aforesaid. [717]
[17th November, 1944.]

PART I

TOWN AND COUNTRY PLANNING

Areas of extensive war damage ; acquisition of land, and grants towards expenses of acquisition and clearing

1. Designation of areas of extensive war damage, and of land needed for re-location of population and industries of such areas.—(1) Where the Minister of Town and Country Planning (in this Act referred to as “ the Minister ”) is satisfied that it is requisite, for the purpose of dealing satisfactorily with extensive war damage in the area of a local planning authority, that a part or parts of their area, consisting of land shown to his satisfaction to have sustained war damage or of such land together with other land contiguous or adjacent thereto, should be laid out afresh and redeveloped as a whole, an order declaring all or any of the land in such a part of their area to be land subject to compulsory purchase for dealing with war damage may be made by the Minister if an application in that behalf is made to him by the authority before the expiration of five years from such date as the Minister may by order appoint as being the date when the making of such applications has become practicable.

A part of the area of a local planning authority as to which the Minister is satisfied as aforesaid is in this Act referred to as an “ area of extensive war damage ”. [718]

(2) Where the Minister is satisfied that land is or will be required for the purpose of providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of a part of the area of a local planning authority being an area of extensive war damage, he may, if an application in that behalf is made to him by the authority before the expiration of five years from the date appointed under the preceding subsection, make an order declaring any land which ought in his opinion to be made available for that purpose to be land subject to compulsory purchase for that purpose.

In this Act the expression “ re-location of population or industry ” means, in relation to an area of extensive war damage, rendering available elsewhere than in that area, whether in an existing community or in a community to be newly established, accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area or who were doing so but by reason of war circumstances are no longer for the time being doing so, and whose continued or resumed location in that area would be inconsistent with the proper planning thereof ; and the expression “ replacement of open space ” means, in relation to an area of extensive war damage, rendering land available for use as an open space or otherwise in an undeveloped state in substitution for land in that area which is so used. [719]

(3) Where it appears to the Minister that, having regard to all the circumstances, a local planning authority will, at some future date falling not earlier than two years after the date appointed under subsection (1)

of this section, have had sufficient time for the submission of applications for orders under subsection (1) of this section, he may notify the local planning authority accordingly, and if he so notifies them he shall not be required to consider any such application made by them after that date :

Provided that before the Minister gives a notification under this subsection he shall inform the local planning authority of his intention so to do and afford them an opportunity of appearing before and being heard by a person appointed by him for the purpose. [720]

(4) Where a local planning authority have taken into consideration for the purposes of this section the question of the laying out afresh and redevelopment as a whole of a part of their area, or the question of providing in any locality for re-location of population or industry or for replacement of open space, they shall publish in one or more newspapers circulating in their area a notice stating that they are considering the said question and describing in general terms the situation of the part of their area or the locality, and shall not make an application for an order under this section as respects that part of their area or that locality, as the case may be, before the expiration of two months from the date on which a notice has been published or first published in relation thereto in pursuance of this subsection. [721]

(5) An application for an order under this section shall designate the land to which the application relates by reference to a map or maps annexed thereto, either with or without descriptive matter (which, in the case of any discrepancy with the map or maps, shall prevail except in so far as may be otherwise provided by the application), and subject as aforesaid shall be in such form as may be prescribed. [722]

(6) An application for an order under this section shall be accompanied by such statement, illustrated by such map or maps, as the authority consider requisite for indicating the manner in which it is intended that the land in the area of extensive war damage, or the land as to which they seek an order declaring it to be subject to compulsory purchase for providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of such an area, should be laid out as respects its internal arrangement and in relation to the existing or intended lay-out of the surrounding locality, and the manner in which it is intended that such land should be used whether for purposes requiring the carrying out of development or otherwise. [723]

(7) If the Minister is satisfied that the particulars appearing from the application and the statement are adequate for enabling the expediency of the making of an order to be properly considered, he shall notify the authority that he is so satisfied and thereupon they shall—

(a) publish by Gazette and local advertisement a notice in the prescribed form describing the land to which the application relates, stating that an application under this section has been submitted to the Minister in relation thereto and is about to be considered by him, naming a place where a copy of the application and of the map or maps and any descriptive matter annexed thereto, and of the statement and map or maps illustrating it submitted to him, may be seen at all reasonable hours, and specifying the time (not being less than twenty-eight days from the first local advertisement) within which, and the manner in which, objections to the application may be made ; and

(b) serve a like notice on such persons as the Minister may specify whether individually or as members of a class of persons ;

and the provisions of the First Schedule to this Act shall have effect in relation to the application if any objection thereto is duly made. [724]

(8) Subject to the provisions of the said Schedule in a case in which those provisions have effect in relation to the application, the Minister may make an order in accordance therewith either without modification or with any modification except (unless all persons interested consent) a modification extending the order to any land not thereby designated. [725]

(9) Where the Minister proposes to make an order in accordance with an application with any modification, he shall furnish to the authority a statement of the proposed modification, and may, if he thinks fit, give to the authority directions requiring them to publish by Gazette and local advertisement, or to serve on such persons, or on all persons of such classes, as may be specified in the directions, or both to publish and serve as aforesaid, such notice of the proposed modification as may be therein specified. [726]

(10) An order under this section shall designate the land to which it relates in the manner specified in subsection (5) of this section, and that subsection shall have effect accordingly with the substitution of references to the order for references to the application. [727]

(11) As soon as may be after such an order has been made, the authority on whose application the order was made shall publish by Gazette and local advertisement a notice in the prescribed form stating that the order has been made and naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at all reasonable hours, and shall serve a like notice on any person who has duly made an objection to the application and at the time of making it or thereafter has sent to the authority a request in writing to serve him with the notice required by this subsection specifying an address for service and, on such other persons as the Minister may specify whether individually or as members of a class of persons. [728]

(12) Where an authority who have published a notice under subsection (4) of this section as a preliminary to an application made by them for an order under this section are required by virtue of subsection (7) (9) or (11) of this section to publish any notice, they shall serve a like notice on any owner of any of the land designated by the application who at any time after the publication of the notice under subsection (4) of this section has sent to the authority a request in writing that he should be so served specifying an address for service and giving the prescribed particulars of his interest. [729]

Under sub-s. (1) local planning authorities (see *infra*) have to consider what land they will require to purchase for the purpose of dealing with areas of extensive war damage. Under sub-s. (2) they have to consider what land they will require to purchase for providing, elsewhere than in the areas of extensive war damage, for re-location of population or industry or for replacement of open space, in the course of the redevelopment of their area as of extensive war damage. When they have decided what land they will require for these purposes, they may apply to the Minister for an order or orders declaring such lands to be subject to compulsory purchase. The time within which the application must be made is dealt with in sub-ss. (1), (2) and (3). In making an application authorities must follow the procedure laid down in sub-ss. (5), (6) and (7), and when they have obtained their order, they must comply with the requirements of sub-s. (11) as to the publication and service of notices.

An order under this section does not confer any power of compulsory purchase; the power to purchase compulsorily for the above-mentioned purposes is conferred by means of a compulsory purchase order applied for by the authority and confirmed by the Minister under s. 2, *post*.

The marginal note correctly indicates the legal purport of the section but from a practical standpoint the section involves the replanning of areas of extensive war damage and in many cases, the planning of new communities or the extension of existing communities to provide for the re-location of population in industry.

Where a planning scheme is in operation for an area which includes areas of extensive war damage, many of its provisions will probably be found to have become obsolete; in the event advantage may be taken of the power enforced by s. 33, *post*, to suspend the planning scheme and re-impose interim development control.

For provisions as to London, see s. 56, *post*.

For provision of the greatest importance to statutory undertakers, see s. 13 (5), *post*.

See s. 5, *post*, for the construction of the word "area" where the application is made by a county council or joint committee.

The expression "local planning authority" means such a council as is mentioned in s. 2 (1) of the Town and Country Planning Act, 1932 (25 Statutes 472), i.e. (1) the Common Council of the City of London; (2) the London County Council; (3) county borough councils; (4) non-county borough councils; (5) urban district councils; (6) rural district councils; (see s. 55, *post*).

Where a district council (see 1932 Act, s. 2) have relinquished their powers and duties under the 1932 Act to a County Council, the County Council may make an application (see s. 55 (2), *post*).

A joint committee to whom the power has been delegated by constituent authorities may make an application (see s. 55 (3), *post*).

For the definition of "war damage," see s. 65, *post*.

The Minister may declare *any* land which ought in his opinion to be made available for the purposes mentioned in sub-s. (2), to be subject to compulsory purchase, but the land must have been "designated" in the application unless all persons interested consent to the Minister modifying an order to include land not designated in the application (sub-s. (8)). The land need not necessarily be within the area of the applicant authority or in the area of one of the constituent authorities in the case of an application by a joint committee.

The expression "open spaces" is not defined by the Act. In town planning schemes two kinds of "open spaces" are recognised: "public" and "private." There seems to be no reason why the provisions of sub-s. (2) should not apply to private open spaces as well as to public. The words "or otherwise in an undeveloped state" indicate that the term "open space" is to be construed very literally.

The word "development" which is used in sub-s. (6) includes redevelopment (s. 65, *post*). The definitions contained in s. 53 of the 1932 Act (25 Statutes 520) are for the purposes of that Act only and have no application to this Act except where there is an express provision to this effect, or the context so implies.

As to the meaning of "Gazette and local advertisement," see s. 65, *post*.

Under sub-s. (7) (a) objections must be objections to the application. While particulars given in the statement may provide grounds for objecting to the application, care must be taken to frame the objection in relation to the application and not the statement. See Sched. I, *post*, for procedure for dealing with objections.

As to the service of notices, see s. 54, *post*.

The order, if made, will be in accordance with the application with or without modification. It would seem that the power to modify would include a power to cure any legal defect in the application (*Minister of Health v. R., Ex parte Yaffe*, [1931] A. C. 494; Digest Supp.). See also *Re Bowman, South Shields (Thames Street) Clearance Order*, 1931, [1932] 2 K. B. 621; Digest Supp.

2. Power to purchase land for redevelopment of areas of extensive war damage, or needed for re-location of population and industries of such areas.—

(1) Subject to the provisions of this section, a local planning authority may be authorised to purchase compulsorily—

- (a) any land in their area as to which an order under section one of this Act is in force declaring the land to be subject to compulsory purchase for dealing with war damage, or
- (b) any land as to which an order under that section made on the application of that authority is in force declaring the land to be subject to compulsory purchase for providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of an area of extensive war damage,

by an order made by the authority and submitted to the Minister and confirmed by him in accordance with the provisions of Part I of the Second Schedule to this Act. [730]

(2) Subject to the provisions of this section, a local planning authority may be authorised in manner aforesaid to purchase compulsorily any land in their area which is in an area of extensive war damage, notwithstanding that no order under section one of this Act is in force in relation thereto, if—

- (a) the Minister is satisfied that its acquisition by the authority will be required for the purpose of dealing satisfactorily with the damage whatever may be decided as to the manner in which the land is to be laid out and used, and that the postponement of the acquisition thereof would be prejudicial to the public interest; and
- (b) the order authorising the purchase is submitted to the Minister before the expiration of three years from the date appointed under sub-section (1) of the preceding section. [731]

(3) Without prejudice to any other power in that behalf, a local planning authority may, with the consent of the Minister, acquire by agreement any land in their area which is in an area of extensive war damage, or any land as to which the Minister is satisfied that it is required for providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of a part of their area being an area of extensive war damage. [732]

(4) An owner of any land as to which an order under section one of this Act, or under subsection (2) of this section, has become operative may at any time after the expiration of five years from the date appointed under subsection (1) of the preceding section, if the acquisition under this Part of this Act of his interest in the land has not then become obligatory, give notice in writing to the local planning authority in whose area the land is situated that he desires to avail himself of the provisions of this subsection, and, where such a notice is given on any date, unless within three months from that date the acquisition of his interest has become obligatory, or an authority on whom authorisation to purchase the land compulsorily has been or could be conferred under this Part of this Act has made to the owner an offer to purchase his interest at a price to be agreed, or, in default of agreement, at the like price, to be determined in the like manner, as if the purchase were compulsory, his interest shall be treated as excepted from the operation of any order under this section or under section four of this Act, whether made before or after the expiration of the said three months:

Provided that in a case in which the land in question either has not sustained war damage or has sustained such damage but has been rendered capable of reasonably beneficial use, the Minister shall have power, on application being made to him within the said three months by an authority on whom authorisation to purchase the land compulsorily has been or could be conferred, and after affording to the authority and to the owner an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, to direct that the notice shall not have effect, but without prejudice to the giving of a further notice after such interval as the Minister may specify.

Any question arising under the proviso to this subsection whether land has been rendered capable of reasonably beneficial use shall be determined in accordance with the provisions of section eleven of this Act in that behalf. [733]

(5) The authority on whose application an order in force under section one of this Act was made may at any time, with the consent of the Minister, direct that the order shall cease to be in force as to any particular land to which it relates. [734]

(6) An authority shall comply with any requirements of the Minister as to notification to other authorities concerned of the receipt by the authority of notices under subsection (4) of this section or of the giving by them of directions under the last preceding subsection. [735]

This section relates to both compulsory purchase and purchase by agreement for the purpose indicated in the marginal note.

For the modifications as to procedure and compensation for purchase in case of land held for the carrying on of statutory undertakings, see s. 18, *post*.

As to the meaning of "local planning authority," see the notes to s. 1, *ante*.

A purchase order made under sub-s. (1) and Pt. I of Sched. II authorise but not compel an authority to purchase the land specified in the order. The powers of purchase conferred by an order under this Act must be exercised within three years from the coming into operation of the order (Sched. V, Pt. I, para. 2, *post*).

In view of the cumbersome procedure prescribed by s. 1, many authorities would doubtless like to take advantage of the provisions contained in sub-s. (2). Whether the Minister will encourage any such practice remains to be seen. There should seldom be any difficulty in satisfying the Minister on the points mentioned in the subsection—the terms seem wide enough to cover every area of extensive war damage, but note the provisions contained in s. 7 (1), *post*.

Sub-s. (4) contains provisions for the benefit of owners ; sub-s. (5) confers power on authorities to direct (with the consent of the Minister) that an order in force under s. 1 shall cease to be in force as to any particular land to which it relates.

For definitions of " war damage " and " owner," see s. 65, *post*.

3. Power to purchase land for highways in connection with areas of extensive war damage, or with land needed for re-location.—(1) Where the Minister is satisfied that the construction or improvement of a road is needed—

- (a) outside an area of extensive war damage for the purpose of securing a satisfactory lay-out for land in that area, or of enabling any such land to be developed in the manner intended by the local planning authority, or
- (b) for the purpose of providing proper means of access to land which is to be made available for providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of such an area,

a local highway authority may, subject to the provisions of subsections (3) and (5) of this section, be authorised, by an order made by the authority and submitted to the Minister and confirmed by him in accordance with the provisions of Part I of the Second Schedule to this Act, to purchase compulsorily any land as to which the Minister is satisfied that its acquisition by the authority is requisite for the construction or improvement of the road, or for carrying out the improvement, or controlling the development, of frontages to the road or of lands abutting thereon or adjacent thereto. [736]

(2) Where the Minister of War Transport is satisfied that the construction or improvement of a road is needed to supersede a part of a trunk road, the supersession whereof appears to him to be expedient for any such purpose as is mentioned in paragraph (a) or (b) of the preceding subsection, the said Minister may, subject to the provisions of subsections (3) and (5) of this section, be authorised, by an order made by him in accordance with the provisions of Part II of the Second Schedule to this Act, to purchase compulsorily any land as to which he is satisfied that its acquisition by him is requisite for the construction or improvement of the road, or for carrying out the improvement, or controlling the development, of frontages to the road or of lands abutting thereon or adjacent thereto.

Expenses incurred by the said Minister by virtue of this subsection shall be defrayed out of the Road Fund. [737]

(3) Except in a case in which the Minister or the Minister of War Transport, as the case may be, is satisfied that the land as to which the confirmation or making of an order under this section falls to be considered by him is required for the purposes of a project which was adequately set out in a statement submitted with an application for an order under section one of this Act which has been made, or has been the subject of an inquiry for the purposes of subsection (3) of section one of the Trunk Roads Act, 1936, the notice required by paragraph 2 or 8, as the case may be, of the Second Schedule to this Act to be published shall be published not only as therein mentioned but also by being exhibited at such places in the locality to which the order relates as appear to the authority by whom it was submitted or to the Minister of War Transport, as the case may be, to be suitable for bringing it to the attention of all persons concerned. [738]

(4) A local highway authority or the Minister of War Transport may enter into an agreement with an owner of any frontage to a road, or land abutting on or adjacent to a road, imposing, so far as his interest in the land enables him to bind it, restrictions for controlling the development of the frontage or land, and any restrictions imposed by such an agreement shall be enforceable by the local highway authority or the said Minister,

as the case may be, against the said owner and any person deriving title under him in the like manner and to the like extent as if the authority or Minister were possessed of, or interested in, adjacent land and the agreement had been entered into for the benefit of that adjacent land. [739]

(5) Where there is submitted to the Minister, or the Minister of War Transport proposes to make, an order under this section authorising the compulsory purchase of any land forming a frontage to, or abutting on or adjacent to, a road, and the Minister or the Minister of War Transport, as the case may be, is satisfied as respects the whole or any part of the land—

- (a) that the purchase would be requisite only for the purpose of controlling development, and
- (b) that every owner has entered, or is willing to enter, into such an agreement with the local highway authority or the Minister of War Transport as is provided for by the last preceding subsection, or is bound by such an agreement, and that the agreement or proposed agreement is satisfactory for the said purpose,

the order shall not be confirmed or made so as to authorise the compulsory purchase of any part of the land as to which the Minister or the Minister of War Transport, as the case may be, is satisfied as aforesaid. [740]

(6) A local highway authority may, with the consent of the Minister, acquired by agreement any land which they could be authorised under this section to purchase compulsorily. [741]

In connection with this section there should be noted :

- (1) the power conferred on a local planning authority by s. 6, *post*, to undertake to make and made contributions towards the expenses of a highway authority under this part of the Act ;
- (2) that a local highway authority may be authorised to purchase land compulsorily and may acquire land by agreement for highway purposes relating to the re-development of areas of bad lay-out or obsolete development (s. 9 (3), (5), *post*).
- (3) the authority may be given to a local highway authority by the Minister of War Transport under s. 21 to construct new roads for the purposes of this part of the Act.

The local planning authority or other authority acting in that capacity will apparently be responsible for highways inside an area of extensive war damage and may either construct or improve roads themselves or arrange with the local highway authority (if a different authority) to do it for them. For the meaning of " an area of extensive war damage," see s. 1 (1).

For the definition of " local highway authority," see s. 65, *post*.

For the Trunk Roads Act, 1936, see 29 Statutes 183.

4. Power to purchase land designated under s. 1 for the public service.—

(1) Where the purchase of any of the land as to which an order under section one of this Act is in force—

- (a) appears to the Minister of Works and the Minister to be necessary for the public service, or
- (b) appears to the Postmaster-General and the Minister to be necessary for the purpose of the Post Office,

the Minister of Works and the Minister, or the Postmaster-General and the Minister, as the case may be, may, by an order made by them in accordance with the provisions of Part II of the Second Schedule to this Act, provide that the power to purchase land for the public service conferred by section two of the Commissioners of Works Act, 1852, or the power to purchase land for the purpose of the Post Office conferred by subsection (1) of section forty-six of the Post Office Act, 1908, as the case may be, shall in the case of that land be exercisable as a power to purchase compulsorily. [742]

(2) Subsection (2) of section forty-six of the Post Office Act, 1908 (which provides for obtaining the sanction of Parliament for a purchase of land under that section compulsorily) shall not have effect in relation to a purchase of land made thereunder compulsorily pursuant to an order under this section. [743]

(3) References in this Act to a purchase of land under this Part of this

Act include references to a purchase made under the said section forty-six compulsorily pursuant to an order under this Part of this Act, and references in this Act to a Minister include references to the Postmaster-General. [744]

General Note.—This section only applies to land as to which an order under s. 1, *ante*, is in force. The Minister of Works and the Minister of Town and Country Planning or the Postmaster-General and the Minister of Town and Country Planning will act jointly in preparing the draft compulsory purchase order. Objections to the draft order will be considered and determined in accordance with the provisions of Sched. I, *post*, by the Ministers who made it: the circumstances are rather peculiar but they have arisen before; see *Re London-Portsmouth Trunk Road (Surrey) Compulsory Purchase Order (No. 2)*, 1938, [1939] 2 All E. R. 464; Digest Supp. Note in connection with this section, para. 10 of Sched. II, *post*.

For s. 2 of the Commissioners of Works Act, 1852, see 3 Statutes 294 and for s. 46 of the Post Office Act, 1908, see 13 Statutes 55.

5. Grants towards loan charges in respect of acquisition and clearing of land for dealing with war damage.—(1) Subject to and in accordance with the provisions of this section and of section seven of this Act, the Minister may undertake to make and may make, out of moneys provided by Parliament grants to a local planning authority as respects any moneys borrowed by the authority to defray the cost—

- (a) of acquiring, in the exercise of powers conferred by this Part of this Act, any land in an area of extensive war damage, or of clearing, in the exercise of powers so conferred, any such land so acquired; or
- (b) of so acquiring or clearing any other land as to which the Minister is satisfied that it is required for providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of such an area,

of the following amounts, that is to say—

- (i) as respects moneys borrowed to defray cost falling within paragraph (a) of this subsection, of amounts equal to the loan charges which the authority are liable to pay for the period of two years beginning with the date on which the moneys were borrowed, together with such further amounts as are provided for by the following provisions of this section;
- (ii) as respects moneys borrowed to defray cost falling within paragraph (b) of this subsection, of amounts equal to the loan charges which the authority are liable to pay for such period as is mentioned in the last preceding paragraph, together with further amounts equal to one half of the loan charges which the authority are liable to pay for the period of two years beginning with the end of that period. [745]

(2) Where the preceding subsection has effect as respects moneys borrowed to defray cost falling within paragraph (a) of that subsection, and the Minister is satisfied that during any of the eight years next following the end of the said period of two years the area of extensive war damage remains, by reason of such damage, incapable to any extent of being brought into use for any substantial purpose and that the rendering of it capable of being brought into use has been for the time being impracticable or could have been accomplished only in a manner involving wasteful expense or bad planning, he may make out of moneys provided by Parliament further grants in respect of the loan charges which the authority are liable to pay for that year, of an amount bearing to the amount of those charges such proportion as appears to the Minister to be appropriate having regard to the extent to which during that year that area remains as aforesaid incapable of being brought into use.

The Minister, with the consent of the Treasury, may, after consultation with such associations of local authorities as appear to him to be concerned

and with any local authority with whom consultation appears to him to be desirable, make rules as to the matters to which regard is to be had in determining the extent to which during any year an area of extensive war damage remains as aforesaid incapable of being brought into use, and in determining the proportion appearing to the Minister to be appropriate as aforesaid, and as to the application of the provisions of this subsection where those provisions have effect as respects more than one authority in relation to the same area of extensive war damage; and in particular rules made under this subsection may provide that in such circumstances as may be specified by the rules a development of land need not be treated as the bringing of the land into use for a substantial purpose, notwithstanding that apart from such provision it would fall to be so treated, so long as the local planning authority in question are prevented by such circumstances relating to the area as may be specified by the rules from obtaining a return from the development which is substantial having regard to the nature thereof. [746]

(3) Where it appears to the Minister and the Treasury that by reason of special circumstances affecting the redevelopment of an area of extensive war damage the time required for redeveloping the area must necessarily extend beyond the period over which under the last preceding subsection further grants may be made, that period shall be extended by five years. [747]

(4) For the purposes of this section the Minister may, in such cases as he may with the consent of the Treasury determine, treat land appropriated by a local planning authority for any of the purposes of this Part of this Act as if it had been acquired by them for that purpose in the exercise of powers conferred by this Part of this Act at such cost as the Minister may with the consent of the Treasury determine, and as if the cost had been defrayed by the application, at the time of the appropriation, of moneys belonging to the authority. [748]

(5) Where the cost of the acquisition by a local planning authority of any land is reduced by reason of the land being subject to a restriction on the development or use thereof imposed by or under any enactment, any payment made by the authority in connection with the restriction (whether by way of compensation or of contribution towards damage or expense incurred in consequence of the restriction), not exceeding the amount by which the said cost is reduced as aforesaid, shall be treated for the purposes of the preceding provisions of this section as if it had been part of the cost of the acquisition of the land, and as if it had been defrayed by the application, at the time of the acquisition, of moneys belonging to the authority. [749]

(6) Where a local planning authority apply, or are treated as having applied, moneys belonging to the authority to defray any such cost as is mentioned in the preceding provisions of this section, those provisions shall have effect as if the said moneys had at the time of the application thereof been borrowed on such terms as to interest and rate of repayment as the Treasury may determine, and the authority were liable to pay loan charges in respect thereof accordingly. [750]

This section provides for grants from the Exchequer as respects the cost :—

- (a) of acquiring and clearing land in areas of extensive war damage;
- (b) of acquiring and clearing any other land required for providing re-location of population or industry or for replacement of open space.

The amounts of the grant will be as respects :—

- (a)—amounts equal to the loan charges which the authority are liable to pay for the first two years (sub-s. (1)), and thereafter the grants can be continued for a further period of eight (sub-s. (2)), or in exceptional circumstances thirteen years (sub-s. (3)), these further grants being made proportionately to the extent to which the process of reconstruction had made the land available for substantial use and capable of making a return to the authority who owns it;
- (b)—amounts equal to the loan charges which the authority are liable to pay for the first two years and thereafter at half the rate of the loan charges.

Sub-s. (4) enables the Minister to treat any land appropriated by the authority for any of the purposes of this part of the Act as if it had been acquired for these purposes, and if the purpose is one which would have ranked for grant, then the grant will be payable in respect of what the Minister, with the consent of the Treasury, determines would have been the cost of the appropriated land.

It may happen that the cost of acquisition will be reduced because of restrictions previously imposed on the land under such Acts as the Town and Country Planning Acts, 1932 and 1943 (28 Statutes 467, 36 Statutes 239), and the Restriction of Ribbon Development Act, 1935 (28 Statutes 79, 275). If the authority have made any payment in respect of these restrictions, such payment will be treated as part of the cost of acquisition and rank for grant (sub-s. (5)).

Where an authority, instead of borrowing, expend any money out of their own funds for the purposes mentioned in (a) or (b) in the first paragraph of this note, such expenditure is deemed to be a loan and ranks for grant as if the authority has borrowed the money (sub-s. (6)).

As to the meaning of "local planning authority," see the notes to s. 1, *ante*. The power to borrow money or levy a rate cannot be delegated under s. 3 of the 1932 Act (28 Statutes 473). It would seem that where a joint committee acquire land and the cost will rank for grant, the grant will be payable to the constituent authority in whose area the land is situated or on whose behalf the land was acquired and this authority will re-imburse the joint committee under s. 3 (6) of the 1932 Act. A similar position would arise in a case where a district council have relinquished their powers under Pt. I of this Act to a county council. In short, "local planning authority," in this section does not include a joint committee or county council.

As to the meaning of "area of extensive war damage," see s. 1, *ante*.

"Loan charges" are defined in s. 65, *post*.

For powers in respect of appropriation, see ss. 14 and 19, *post*.

6. Contributions of local planning authorities towards expenses of highway authorities under this Part, and grants in respect of such contributions.—

(1) A local planning authority may undertake to make, and may make, contributions towards the expense incurred by a local highway authority—

(a) in acquiring land the acquisition of which by them is authorised under section three of this Act by reference to the requirements of an area of extensive war damage the whole or any part of which is comprised in the area of the local planning authority, or by reference to the requirements of land to be made available for the purpose of providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of such an area of extensive war damage ;

(b) in carrying out any such construction or improvement as is mentioned in subsection (1) of section three of this Act by reference to such requirements as aforesaid ; or

(c) in carrying out the construction or improvement of any road in such an area of extensive war damage as aforesaid. [751]

(2) A local planning authority may undertake to make, and may make, contributions, as respects any road as to which the Minister of War Transport is satisfied that the construction or improvement thereof is needed to supersede a part of a trunk road the supersession whereof appears to him by reference to such requirements as are mentioned in paragraph (a) of the preceding subsection, to be expedient as mentioned in subsection (2) of section three of this Act, towards the expense incurred by the said Minister—

(a) in acquiring land for the construction or improvement of the road, or for carrying out the improvement, or controlling the development, of frontages to the road or of lands abutting thereon or adjacent thereto ;

(b) in carrying out the construction or improvement of the road or of any such frontages or lands.

Receipts of the Minister of War Transport under this subsection shall be paid into the Exchequer. [752]

(3) Subject to the provisions of the next following section, the Minister may undertake to make, and may make, out of moneys provided by Parliament grants to a local planning authority as respects any moneys borrowed by the authority—

- (a) to defray the cost of contributions made by them under subsection (1) of this section towards the expense of acquiring and clearing land the acquisition of which is authorised as mentioned in paragraph (a) of that subsection, or
- (b) where the authority is both the local planning authority and the local highway authority, to defray the cost of acquiring land as mentioned in the said paragraph (a) and clearing land so acquired or
- (c) to defray the cost of contributions made by them under the last preceding subsection towards the expense incurred by the Minister of War Transport in acquiring land as mentioned in paragraph (a) of that subsection and clearing land so acquired,

of amounts equal to the loan charges which the local planning authority are liable to pay for the period of two years beginning with the date on which the moneys were borrowed. [753]

(4) Subsection (6) of the last preceding section shall apply in relation to the last preceding subsection as it applies in relation to subsection (1) of that section. [754]

The provisions in this section are rendered necessary by reason of the fact that in some cases the local planning authority (as defined in s. 55, *post*), will not also be the local highway authority (as defined in s. 65, *post*).

Sub-s. (1) deals with contribution towards the expenses of a local highway authority; sub-s. (2) with contributions towards the expenses of the Minister of Transport as respect any road to supersede a part of a trunk road; sub-s. (3) with grants by the Minister to a local planning authority; sub-s. (4) applies sub-s. (6) of s. 5, *ante*, to sub-s. (3) of this section.

"Area of extensive war damage," is defined by s. 1, *ante*.

7. General provisions as to grants under the two preceding sections.—

(1) It shall be a condition of the making of grants under either of the two last preceding sections—

- (a) that there shall have been submitted to the Minister such information as to the proposals of the local planning authority for the lay-out and redevelopment of the area of extensive war damage and of any such other land as is mentioned in paragraph (b) of subsection (1) of section five of this Act as the Minister may require to enable a comparison to be made between the annual return to the authority from the carrying out of the redevelopment and the annual equivalent of the cost thereof; and

- (b) that the proposals have been approved by the Minister with the consent of the Treasury as being likely to result in an annual return and annual equivalent such as are mentioned in the preceding paragraph which are satisfactory in relation to one another, having regard to the circumstances of the area of extensive war damage and the requirements of a proper lay-out and redevelopment. [755]

(2) The approval under the preceding subsection of any proposals may be made subject to compliance with requirements imposed by the Minister for securing, to such extent as he may specify, that any valuation, or negotiations for the acquisition, of land in the area of extensive war damage to be acquired by the local planning authority under this Part of this Act, or of other land to be so acquired being land such as is mentioned in paragraph (b) of subsection (1) of section five of this Act, will be carried out by the Valuation Office. [756]

(3) Grants under either of the two last preceding sections shall be payable at such times and in such manner as the Treasury may direct and subject to such conditions as to records, certificates, audit or otherwise as the Minister may with the approval of the Treasury impose. [757]

In view of the provisions of this section, local planning authorities will not be able to avoid submitting their planning proposals to the Minister by proceedings under s. 2 (2), *ante*.

"Valuation office" means the valuation office of the Inland Revenue Department (s. 65, *post*).

8. Quinquennial review of financial effect of redevelopment.—(1) An authority whose proposals for the redevelopment of any part of their area have been approved under the last preceding section shall, in such year as the Minister may require and in each fifth year thereafter, submit to the Minister such particulars as may be prescribed by regulations made by the Minister with the approval of the Treasury after consultation with such associations of authorities as appear to the Minister to be concerned and with any local authority with whom consultation appears to him to be desirable, as respects such matters as may be so prescribed, with regard to the financial effect of the carrying out of the redevelopment to which the proposals, and any other proposals of the authority so approved, relate. [758]

(2) Where it appears to the Minister, having regard to particulars submitted by an authority in pursuance of the preceding subsection, taken together with any previous particulars so submitted that a net gain has accrued to the authority from the carrying out of the redevelopment to which the statement or statements in question relate, he may notify the authority accordingly, and after considering any representations made by the authority may certify the amount thereof; and the amount certified, less any amount previously certified under this subsection, shall be applied in repayment to the Minister of grants made to the authority under subsection (2) or (3) of section five of this Act. [759]

(3) Receipts of the Minister under the last preceding subsection shall be paid into the Exchequer. [760]

This section enables the Treasury to ascertain if and when a net gain has been made and where it has been to certify the amount and require repayment on account of grants previously made.

Acquisition of land for certain planning purposes

9. Power to purchase land for purposes relating to redevelopment of areas of bad lay-out and obsolete development.—(1) Where the Minister is satisfied that it is requisite, for the purpose of dealing satisfactorily with conditions of bad lay-out and obsolete development in the area of a local planning authority, that a part or parts of their area, consisting of land shown to his satisfaction to be land where such conditions exist or of such land together with other land contiguous or adjacent thereto, or such a part or parts of their area together with land outside their area contiguous or adjacent thereto, should be laid out afresh and redeveloped as a whole, the authority may be authorised to purchase compulsorily any land in such a part of their area, and any such land outside their area as aforesaid, by an order made by the authority and submitted to the Minister and confirmed by him in accordance with the provisions of Part I of the Second Schedule to this Act.

References in the following provisions of this section to a part of the area of an authority as to which the Minister is so satisfied include references to land as to which he is so satisfied consisting of a part of the area of the authority together with land outside their area but contiguous or adjacent thereto. [761]

(2) Where the Minister is satisfied as aforesaid as to a part of the area of a local planning authority and is further satisfied that land is or will be required for the purpose of providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment thereof, the authority may be authorised in manner mentioned in subsection (1) of this section to purchase compulsorily any land which ought in the opinion of the Minister to be made available for that purpose.

In this Act the expressions "re-location of population or industry," and "replacement of open space," have, in relation to a part of the area of a local planning authority as to which the Minister is satisfied as aforesaid, the like meanings as are assigned to those expressions respectively by section one of this Act in relation to an area of extensive war damage. [762]

(3) Where the Minister is satisfied as mentioned in subsection (1) of this section as to a part of the area of a local planning authority, a local highway authority may be authorised in manner therein mentioned to purchase compulsorily any land as to which the Minister is satisfied that its acquisition by that authority is, in relation to the part in question of the area of the local planning authority, requisite as mentioned in subsection (1) of section three of this Act in relation to an area of extensive war damage, and the Minister of War Transport may be authorised, by an order made by him in accordance with the provisions of Part II of the Second Schedule to this Act, to purchase compulsorily any land as to which he is satisfied that its acquisition by him is, in relation to the part in question of the area of the local planning authority, requisite as mentioned in subsection (2) of section three of this Act in relation to an area of extensive war damage:

Provided that the power to authorise compulsory purchase conferred by this subsection shall be subject to the limitation specified in subsection (5) of section three of this Act as regards cases in which owners have entered, or are willing to enter, into agreements for controlling the development of frontages or other land. [763]

(4) Where the Minister is satisfied as mentioned in subsection (1) of this section as to a part of the area of a local planning authority, and the purchase of any land in that part of that area, or of any land being land that is to be made available for the purpose of providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of that part of that area or land adjacent to such land—

(a) appears to the Minister of Works and the Minister to be necessary for the public service, or

(b) appears to the Postmaster-General and the Minister to be necessary for the purpose of the Post Office,

the Minister of Works and the Minister, or the Postmaster-General and the Minister, as the case may be, may make in relation to that land in accordance with the provisions of Part II of the Second Schedule to this Act such an order authorising the compulsory purchase thereof as is mentioned in section four of this Act.

Subsection (2) of section forty-six of the Post Office Act, 1908, shall not have effect in relation to a purchase of land made under that section compulsorily pursuant to an order under this subsection. [764]

(5) Without prejudice to any other power in that behalf, a local planning or highway authority may, with the consent of the Minister, acquire by agreement any land which they could be authorised under this section to purchase compulsorily. [765]

(6) The provisions of subsections (1) and (2) of section six of this Act as to the making of contributions by a local planning authority towards expenses incurred by a local highway authority and the Minister of War Transport shall, with the necessary modifications, apply in relation to a part of the area of a local planning authority as to which the Minister is satisfied as mentioned in subsection (1) of this section, and in relation to land to be made available for the purpose of providing for re-location of population or industry, or for replacement of open space, in the course of the redevelopment of such a part of their area, as those provisions apply in relation to an area of extensive war damage the whole or any part of which is comprised in the area of a local planning authority and in relation to land to be made available for the purpose of providing for such re-location or replacement in the course of the redevelopment of such an area of extensive war damage. [766]

(7) Expenses of the Minister of War Transport under subsection (3) of this section shall be defrayed out of the Road Fund, and receipts of the said

Minister under the last preceding subsection shall be paid into the Exchequer. [767]

Under and by virtue of s. 25 of the Town and Country Planning Act, 1932 (28 Statutes 502), a responsible authority may purchase any land to which a scheme applies and which they require for the purposes of the scheme either by agreement or compulsorily. Compulsory purchase is authorised under the section by an order made by the authority and confirmed by the Minister. The section, however, only applies in a case in which a scheme has become operative. Similarly, when a scheme has become operative, local authorities, who are not responsible authorities, may purchase land either by agreement or compulsorily for the purpose of an open space or playing field, as if they were a responsible authority.

The powers conferred by the present section mark an advance on those conferred by the 1932 Act, in that there is no need to wait until a scheme comes into operation. This observation also applies to the powers conferred by the next section.

Reference should be made to the notes to ss. 1, 2 and 3, *ante*, many of which are also applicable to this section.

10. Power to purchase land for certain planning purposes.—(1) A local planning authority may be authorised by an order made by the authority and submitted to the Minister and confirmed by him in accordance with the provisions of Part I to the Second Schedule to this Act to purchase compulsorily any land as to which the Minister is satisfied that its acquisition by the authority is expedient on the ground that land is or will be required—

- (a) as a site for development of any class which is needed for the proper planning of the area of the authority, whether in its existing state or as intended, in order to secure a proper balance of development ;
- (b) for use as a public open space or a playing-field ;
- (c) as a site for development for a purpose the furtherance whereof is in the public interest, in substitution for land on which it is desired to carry out development for that purpose, whether consisting of the making good of war damage or of any other operation, but on which that development cannot be allowed consistently with the proper planning of the area of the authority ;
- (d) for providing accommodation for persons or undertakings who are for the time being living or carrying on business or other activities elsewhere by reason of war circumstances, but who would be likely to return or come to the area of the authority, or to a particular part of their area, if accommodation elsewhere is not provided, and whose location in their area, or in that part thereof, as the case may be, would be inconsistent with the proper planning thereof ;

and that the land in question ought to be made available for meeting that requirement :

Provided that a local planning authority shall not be authorised under this subsection to acquire land to meet a requirement falling within paragraph (a), (c) or (d) thereof if the Minister is satisfied that the nature of the requirement and other circumstances are not such as to render it expedient in the public interest that the land to be used for meeting the requirement should be acquired by a local planning authority, that a person other than a local planning authority is able and willing to meet the requirement at such time and in such manner as may be requisite, and that land is available therefor on reasonable terms. [768]

(2) A local planning authority may be authorised in manner mentioned in subsection (1) of this section to purchase compulsorily—

- (a) land in, or in the neighbourhood of, a part of their area being an area of extensive war damage which, for the purposes of the laying out afresh and redevelopment of that area, ought in the opinion of the Minister to be dealt with together with land in that area as to which an order under section one of this Act or under subsection (2) of section two thereof has come into operation ;

(b) land as to which the Minister is satisfied that its acquisition by the authority is expedient on the ground that land is or will be required, in the course of the redevelopment of a part of the area of the authority being an area of extensive war damage or of land in the neighbourhood of such a part of their area, for the purpose of re-location of population or industry or of replacement of open space, and that the land in question ought to be made available for meeting that requirement. [769]

(3) A local planning authority may be authorised in manner aforesaid to purchase compulsorily land in the area of the authority as to which the Minister is satisfied that, by reason of the land being derelict and likely otherwise to remain so for a considerable period, it is expedient that it should be acquired by the authority with a view to securing that it is brought into use. [770]

(4) Without prejudice to any other power in that behalf, a local planning authority may, with the consent of the Minister, acquire by agreement—

(a) any land which they could be authorised under this section to purchase compulsorily; or

(b) any land on which it is desired to carry out the making good of war damage or other development but on which that development cannot be allowed consistently with the proper planning of the area of the authority. [771]

(5) In paragraph (d) of subsection (1) of this section the expression "accommodation" means accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements. [772]

As to the meaning of "local planning authority," see the notes to s. 1, *ante*.

For classes of development hitherto recognised in statutory planning schemes, see "Model Clauses," 1939 Edition, obtainable from His Majesty's Stationery Office. See also Hill's Complete Law of Town and Country Planning, Second Edition, at p. 618.

Land acquired for the replacement of open space under ss. 1 and 2, *ante*, will rank for grant (see notes to s. 5, *ante*); land acquired for use as an open space under this section will not rank for grant.

"Development" includes re-development (s. 65, *post*).

Para. (c) of sub-s. (1) covers the case where someone wishes to develop land for a purpose, the furtherance of which is in the public interest, but if the development were allowed to proceed on that land, it would conflict with the proper planning of the area of the authority. The authority can overcome the difficulty by purchasing an alternative site. The expression "the furtherance whereof is in the public interest" is a very wide one and the power conferred or which may be obtained under this paragraph should prove very useful indeed.

There seems no reason why the word "public" in this context should be given anything but its ordinary meaning. The definition contained in Murray's Oxford Dictionary is: "The community as an aggregate, but not in its organised capacity; hence the members of the community." The community to be considered would be the community in and around the area of the authority or the site (*Tatem Steam Navigation Co., Ltd. v. Inland Revenue Comrs.*, [1941] 2 K. B. 194, C. A., *per* SCOTT, L.J., at p. 203; *Castle Steam Trawlers, Ltd. v. Great Western Rail. Co.* (1909), 24 T. L. R. 317, *per cur.*, at p. 318; 8 Digest 187, 1183).

The power conferred by sub-s. (3) will enable planning authorities to purchase, among lands derelict from other causes, those which have become so from mining and other industrial operations.

Para. (b) of sub-s. (4) gives a power to purchase land by agreement, for which there is no corresponding power to purchase compulsorily and thus differs from the preceding provisions of the Act as to purchase by agreement.

11. Obligation to purchase war-damaged land where development permission refused.—(1) Where the Treasury have certified for the purposes of this section that, having regard to the availability of labour and material, the making good of war damage has in general become practicable in the case of buildings of any description (whether defined by reference to character or situation or other circumstances), and an interim development application is made after the time so certified as respects land which has been rendered, and remains, incapable of reasonably beneficial use in consequence

of war damage to buildings or works thereon, being land which before the occurrence of the damage comprised buildings of the description in question, then if—

- (a) a decision is given (whether by the interim development authority or by the Minister) refusing permission for the development, or granting permission therefor for a limited period only or (where the application is for permission for a limited period only) granting the permission for a period shorter than the period applied for, and
- (b) the development could, apart from the provisions of the Town and Country Planning Acts, 1932 and 1943, at the time of the application have been lawfully carried out and there is no alternative development of the land for which permission would be granted and which could be lawfully carried out within a reasonable period from the time of the application so as to render the land capable of reasonably beneficial use.

any owner of the land may, by notice in writing given to the local planning authority within six months from the date of the decision on the application, require the authority to purchase his interest in the land, and, subject to the provisions of this section, where such a notice is given the authority shall be deemed as from the date on which the notice takes effect in accordance with the following provisions of this section to have been authorised to purchase the interest compulsorily and to have served a notice to treat in respect thereof on that date. [778]

(2) Where notice is given to a local planning authority requiring them to purchase an interest in pursuance of the preceding subsection, the authority shall as soon as may be notify to the Minister that the notice has been given, and also whether in their opinion the conditions precedent to the valid giving of the notice are fulfilled, and thereupon the Minister—

- (a) if he is of opinion that a decision falling within paragraph (a) of the preceding subsection should not have been given, may within the period of two months from the receipt of the notification direct that there shall be substituted for the decision given such decision not falling within that paragraph as appears to him to be expedient, and that the notice shall not take effect ;
- (b) if he is satisfied that any of the conditions precedent to the valid giving of the notice is not fulfilled, shall within the said period direct that the notice shall not take effect ;
- (c) if he is satisfied that, having regard to the benefit which would accrue to the owner in question from the land or any part thereof either in its existing state or if there were carried out thereon any alternative development for which permission would be granted and which could be lawfully carried out within a reasonable period, it is equitable so to do, may within the said period of two months direct that the notice shall not take effect, or shall take effect only as respects such part of the land as may be specified in the direction ;
- (d) if he is satisfied that, having regard to the probable ultimate use of all or any part of the land as respects which the notice is to take effect, it is expedient so to do, may direct that as respects the said land or part thereof the authorisation to purchase and notice to treat referred to in the preceding subsection shall be deemed to have been given and served respectively to and by such county council as may be specified in the direction in lieu of the local planning authority ;

and subject to any direction given under this subsection the notice shall take effect at the expiration of the said period of two months :

Provided that where the Minister proposes to give a direction under this subsection, he shall give notice of the proposal, with such particulars as appear to him requisite, to the persons concerned, that is to say—

- (i) as respect a direction under paragraph (a), (b) or (c) of this subsection, the owner in question, the local planning authority and the interim development authority (if that authority is not the local planning authority),
- (ii) in the case of a direction under paragraph (d) of this subsection, the local planning authority and the county council in question,

and if any of the persons concerned desire to make representations with respect to the proposed direction, the Minister shall not determine whether or not to give the direction until he has afforded to the persons concerned an opportunity of appearing before and being heard by a person appointed by him for the purpose.

Where the Minister gives a direction under paragraph (d) of this subsection, he shall as soon as may be give notice thereof to the owner in question.

[774]

(3) As respects any application for permission to develop land which has been rendered, and remains, incapable of reasonably beneficial use in consequence of war damage to buildings or works thereon, the power of an interim development authority under subsection (2) of section two of the Town and Country Planning (Interim Development) Act, 1948, to postpone the consideration of an interim development application—

- (a) shall not be exercisable where the application is made after the time certified under subsection (1) of this section in relation to any description of buildings which would be comprised in the land after the carrying out of the development for permission for which application is made ;
- (b) where the application is made before the said time, shall not be exercisable so as to postpone the consideration of the application beyond the said time. [775]

(4) The provisions of subsections (1) and (2) of this section shall apply in relation to an application for permission for development made under a planning scheme as they apply in relation to an interim development application, but with the substitution for the references to the interim development authority of a reference to the responsible authority (that is to say, the authority responsible for enforcing and carrying out the relevant provisions of the scheme), and for the reference in paragraph (b) of the said subsection (1) to development for which permission would be granted of a reference to development which could be carried out in conformity with the provisions of the scheme or of permission granted thereunder. [776]

(5) Any question arising under this section or under the proviso to subsection (4) of section two of this Act as to the meaning of the expression “reasonably beneficial use” shall be determined as follows :—

- (a) land shall be deemed to have been rendered incapable of reasonably beneficial use if it was immediately after the occurrence of the war damage in question in a state such as to make it incapable of being as beneficially used while remaining in that state as it was immediately before the occurrence of the damage, and shall be deemed to remain incapable of reasonably beneficial use so long as it is in such a state as aforesaid ;
- (b) land shall be deemed to have been rendered capable of reasonably beneficial use, and an alternative development of land shall be deemed to be such as would render land capable of reasonably beneficial use, if the land has been brought, or the development

would bring the land, as the case may be, into a state such as to make it capable of being as beneficially used while remaining in that state as it was immediately before the occurrence of the war damage in question. [777]

(6) In determining whether there is alternative development which could be carried out so as to render land capable of reasonably beneficial use, regard shall be had to the extent to which any use would involve foregoing the benefit of any buildings or works or parts thereof remaining on the land and still having value. [778]

(7) For the purposes of paragraph (b) of subsection (1) of this section alternative development may be treated as being such as could be carried out so as to render land capable of reasonably beneficial use, notwithstanding that it would not otherwise be so treated, if it is equitable so to do having regard to any contribution which the owner will receive under subsection (4) of section ten of the Town and Country Planning Act, 1932, in respect of the refusal of an interim development application, and in considering whether it is equitable to give a direction under paragraph (c) of subsection (2) of this section, the Minister shall have regard to any such contribution. [779]

(8) Any question arising under paragraph (b) of subsection (1) of this section or under the last preceding subsection shall be determined by the Minister; and, subject to the preceding provisions of this subsection, any such question as is mentioned in subsection (5) of this section shall be determined by the War Damage Commission. [780]

(9) The purchase of any interest by a local authority in purported pursuance of this section shall be conclusive evidence that every condition precedent to the authority being empowered to purchase the interest has been fulfilled;

Provided that this subsection shall not prejudice the provisions of subsection (2) of this section, or the effect of any direction given under that subsection. [781]

(10) A county council may contribute towards the expenses incurred by a local planning authority under this section, and section forty-nine of the Town and Country Planning Act, 1932 (which provides for the manner in which expenses of county councils under that Act are to be defrayed and confers on county councils power to borrow), except the first proviso thereto, shall apply to expenses incurred by a county council under this subsection as it applies to such of their expenses as are mentioned in the said section forty-nine. [782]

(11) References in this Act to land which has been acquired and is for the time being held by a local planning authority for the purposes of this Part of this Act include references to land acquired by such an authority under this section which has not been disposed of by them, or appropriated by them for any such purpose as is mentioned in subsection (3) of section nineteen of this Act. [783]

In the circumstances mentioned in sub-s. (1) of this section, an owner who has been refused interim development permission, or where a scheme is in operation, permission under the scheme, may serve a notice on the local planning authority requiring them to purchase his interest in the land in question and where such notice takes effect it is the same thing as if the local planning authority had served notice to treat on the exercise of compulsory powers on the date the notice takes effect.

For the definitions of "war damage," "interim development application" and "interim development authority," see s. 65, *post*.

The Minister may require an interim development application to be referred to him for decision (Town and Country Planning (Interim Development) Act, 1943, s. 6; 36 Statutes 247). An appeal lies to the Minister against a refusal to grant permission under s. 10 of the 1932 Act (36 Statutes 250), but it will be unnecessary to appeal if it is desired to take advantage of the present section in view of the provision contained in sub-s. (2) (a).

For the definition of "owner," see s. 65, *post*. There may be more than one owner of the same piece of land. A person who holds under a lease the unexpired term whereof does not exceed three years, is not an "owner" within the meaning of the term as used in this Act.

The proviso to sub-s. (2) obliges the Minister to afford the persons concerned an oral hearing before he issues a direction.

The object of sub-s. (3) is to prevent local planning authorities from using their power to postpone the consideration of interim development applications to defeat the object of the section.

To understand the object of sub-s. (4) reference should be made to the model clauses which are usually inserted in a planning scheme. It will be seen that under a scheme, certain development can be carried out without the consent of a responsible authority upon certain lands. In other cases consent is required and if it is refused, an appeal lies to the Minister, as in the case of a refusal of interim development permission. This subsection applies to provisions of sub-ss. (1) and (2) to an application for permission to develop under an operative scheme.

In connection with sub-s. (5) note the provisions contained in sub-s. (8).

For s. 10 (4) of the Town and Country Planning Act, 1932, see 28 Statutes 483.

General provisions as to acquisition of land under Part I

12. Power to authorise purchase by local planning authority for area where land is, in lieu of by promoting authority.—(1) Any authorisation of the compulsory purchase of land outside the area of a local planning authority which under the preceding provisions of this Act could be given to that authority (in this section referred to as "the promoting authority") may in lieu of being given to the promoting authority be given in the like manner and subject to the like conditions, to the local planning authority in whose area the land is situated (in this section referred to as "the area authority"). [784]

(2) The area authority may, in connection with the giving to them of an authorisation under this section, enter into an agreement with the promoting authority containing any terms approved by the Minister as to any matters relating to the carrying out of the purpose for which the purchase in question may be authorised, and in particular, in the case of a purchase for the purpose of providing for re-location of population or industry in the course of the redevelopment of a part of the area of the promoting authority, as to the lay-out and manner of use of the land to be purchased and as to rendering accommodation provided therein available for persons or undertakings from the area of the promoting authority. [785]

(3) Before giving an authorisation to the area authority under this section, the Minister shall consult the promoting authority, and shall afford them an opportunity of negotiating with the area authority for such an agreement as aforesaid; and, if thereafter it appears to the Minister that the authorisation should be given to the area authority but no such agreement has been made, he may as a condition of giving it require the area authority to give to the promoting authority an undertaking to observe such terms as to any of the matters aforesaid as appear to him to be expedient. [786]

(4) The terms of an agreement entered into or undertaking given under this section may be varied from time to time by agreement made between the promoting authority and the area authority with the approval of the Minister, and may at the instance of either of those authorities be varied by the Minister after consultation with the other; and any direction or decision which the Minister has power to give under any enactment shall have effect notwithstanding that it may be inconsistent with anything that would otherwise have been required by virtue of any such terms:

Provided that, before giving a direction or decision appearing to the Minister to involve any such inconsistency, he shall consult the promoting authority. [787]

(5) The Minister may give his consent to the acquisition by agreement by the area authority of any land for the compulsory purchase of which by them an authorisation could be given under this section, subject as is provided by this section as regards such an authorisation, and accordingly references

in subsections (2) and (3) of this section to an authorisation shall include references to such consent, and the area authority may, without prejudice to any other power in that behalf, acquire by agreement any land as to which such consent is given. [788]

S. 1 (2), *ante*, contemplates that in the course of re-planning and re-developing an area of extensive war damage it may become necessary to arrange for an over-spill area in the area of another authority. This may mean the establishment of an entirely new community or the considerable extension of an existing community in the area of a neighbouring authority. Under s. 2 (1) (b) and s. 2 (2) (b), *ante*, a local planning authority may be authorised to purchase compulsorily any land outside their area which they require for this purpose and by s. 2 (3), they may purchase by agreement any land which the Minister is satisfied they require for this purpose. It would obviously have been very unsatisfactory if the Act had merely left it at that. A proposal by one authority to plan and develop a new community in another authority's area is bound to give rise to a number of different problems, if not to a delicate situation which will require very careful handling. The present aims at bringing the promoting authority and the area authority into agreement.

By sub-s. (1) the authority to purchase the land outside the area of the promoting authority can be given to the area authority instead of to the promoting authority.

Sub-s. (2) authorises the area authority to enter into an agreement with the promoting authority in connection with an authorisation to purchase land under sub-s. (1).

Sub-s. (3) requires the Minister, before giving an authorisation under sub-s. (1) to an area authority, to consult the promoting authority and afford them an opportunity of entering into an agreement of the kind mentioned in sub-s. (2). If it then appears to the Minister that the authorisation should be given and no agreement has been made between the authorities, the Minister may make it a condition of giving authorisation, that the area authority give to the promoting authority an undertaking to observe such terms as might have been inserted in an agreement.

Sub-s. (4) provides for the variation from time to time, of the terms of an agreement or undertaking, by agreement between the parties and with the approval of the Minister; or by the Minister, at the instance of either of the authorities after consultation with the other.

Sub-s. (5) empowers the Minister to consent to the acquisition by agreement by the area authority of any land which they could be authorised to purchase compulsorily under this section.

13. Modifications as to procedure and compensation for purchase in case of land held for the carrying on of statutory undertakings.—(1) The preceding provisions of this Act as to the manner in which authorisation may be given for the compulsory purchase of land under the several enactments in that behalf contained in those provisions shall have effect subject to the provisions of this section in the case of land to which this section applies, that is to say, land which is used for the purpose of the carrying on of a statutory undertaking, or in which an interest is held for that purpose, other than any such land which is in respect of its nature or situation comparable rather with the generality of land as respects which those enactments have effect than of land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings. [789]

(2) Any question arising in relation to an authorisation of a compulsory purchase under any of the said enactments whether land is land to which this section applies shall be determined by the Minister having jurisdiction to authorise a compulsory purchase thereunder in the case of land other than land to which this section applies and the appropriate Minister. [790]

(3) If with respect to any of the land as respects which an order authorising a compulsory purchase under any of the said enactments is submitted, or is proposed to be made, in accordance with the procedure therein mentioned, the person carrying on a statutory undertaking makes to the appropriate Minister, in the prescribed manner and within the time within which objections to the order may be made, a representation that it is land to which this section applies and a request that it should be excluded from the order, and it is determined that it is land to which this section applies, then, subject to the provisions of subsection (5) of this section, the order shall, if it relates only to that land, not be confirmed or not be made, as the case may be, or, if it relates in part to that land, be modified so as to exclude it. [791]

(4) A compulsory purchase of land under any of the said enactments may, in the case of land to which this section applies, be authorised—

- (a) in the case of a purchase by a local planning or highway authority, by an order made by the Minister and the appropriate Minister in accordance with the provisions of Part I of the Third Schedule to this Act on the application of that authority ; or
- (b) in the case of a purchase by a Minister, by an order made by the Minister having jurisdiction by virtue of the enactment in question to authorise a compulsory purchase thereunder and the appropriate Minister in accordance with the provisions of Part II of the Third Schedule to this Act :

Provided that if any objection to an application for, or proposal to make, an order giving an authorisation in accordance with this subsection is duly made by the person carrying on a statutory undertaking for the purpose of the carrying on of which an interest in any land to which the application or proposal relates is held, or any such land is used, and is not withdrawn, any order made thereon shall be provisional only and shall be of no effect until confirmed by Parliament. [792]

(5) Where an order in relation to which subsection (3) of this section would apart from this subsection have effect as respects any land is an order under subsection (1) of section two or under section four of this Act authorising the compulsory purchase of that land as being land as to which an order under section one of this Act is in force, the following provisions shall have effect, that is to say—

- (a) subsection (3) of this section shall not have effect as respects the land in question unless within the time allowed for making objections to the application for the relevant order under section one of this Act the person carrying on a statutory undertaking has made to the appropriate Minister in the prescribed manner a representation that the land in question is land to which this section applies ;
- (b) where such a representation is so made as respects any land, the Minister and the appropriate Minister may make under this subsection an order, which shall be provisional only and shall be of no effect until confirmed by Parliament, declaring that it is expedient that that land should be subject to compulsory purchase, and if such an order has taken effect as respects the land in question, subsection (3) of this section shall not have effect as respects it. [793]

(6) The provisions of the Fourth Schedule to this Act shall have effect, as respects the interest of the person by whom the undertaking in question is being carried on, as to the compensation to be paid in respect of a compulsory purchase under this Part of this Act of land to which this section applies, including compensation to be estimated in connection with the purchase for damage sustained by reason of the severing of land the subject thereof from other land held therewith or otherwise injuriously affecting such other land, and compensation to be so estimated for disturbance or any other matter not directly based on the value of land. [794]

(7) In this Act the expression “ statutory undertaking ” means any of the following undertakings the carrying on of which is authorised by any Act (whether public general or local) or by any order or scheme made under, or confirmed by, an Act, that is to say—

- (a) railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier and lighthouse undertakings ;
- (b) undertakings for the supply of electricity, gas, hydraulic power or water ;

and as respects statutory undertakings the expression "the appropriate Minister" means—

- (i) in relation to an undertaking falling within paragraph (a) of this subsection, the Minister of War Transport ;
- (ii) in relation to an undertaking for the supply of electricity, gas or hydraulic power, the Minister of Fuel and Power ;
- (iii) in relation to an undertaking for the supply of water, the Minister of Health ;

and any reference in this Act to the Minister of War Transport and the appropriate Minister shall be construed, in relation to any undertaking falling within paragraph (a) of this subsection, as a reference to the Minister of War Transport. [795]

(8) If any question arises, in relation to anything required or authorised to be done under this Act, which Minister was or is the appropriate Minister as defined in this section, the question shall be determined by the Treasury. [796]

This section enables statutory undertakers to prevent land to which this section applies from being taken under the normal purchase order procedure prescribed by the Act and to oblige the purchasing authority to make a Provisional Order which will be of no effect until confirmed by Parliament. The section applies Sched. IV, *post*, which enacts special provisions relating to the assessment of compensation to statutory undertakers.

At first sight sub-s. (2) appears ambiguous but it is not so : Any question arising in relation to an authorisation of a compulsory purchase whether land is land to which this section applies shall be determined by—

- (1) the Minister having jurisdiction to authorise a compulsory purchase thereunder in the case of land other than land to which this section applies ; and
- (2) the appropriate Minister.

For the meaning of "appropriate Minister," see sub-s. (7).

Sub-s. (3) must be read subject to sub-s. (5).

The steps to be taken to secure the exclusion of land from the order or to prevent an order from being confirmed or made as the case may be are :

- (1) a representation must be made to the appropriate Minister ;
- (2) in the prescribed manner ;
- (3) within the time within which objections to the order may be made ;
- (4) that the land is land to which this section applies ;
- (5) and requesting that the land should be excluded from the order.

Sub-s. (4) appears to allow a local planning authority—or highway authority—or Minister who have been baulked in their purchase of the land under the normal purchase order procedure prescribed by the Act, to proceed in accordance with the special procedure laid down in Pt. I of Sched. III, *post*. The important feature of this procedure is that if an objection is made to an application and is not withdrawn, by persons carrying on the statutory undertaking, any order thereon shall be provisional only and shall be of no effect until confirmed by Parliament.

14. Provisions as to purchase and appropriation of open spaces, etc.—

(1) Where an order under this Part of this Act authorises the compulsory purchase by a local planning or highway authority of any land forming part of any common, open space or fuel or field garden allotment, the order, so far as it relates to the acquisition of such land, shall be provisional only and shall be of no effect until confirmed by Parliament, except where the Minister of Agriculture and Fisheries (in the case of a common or of a fuel or field garden allotment), or the Minister (in the case of an open space, not being a common or such an allotment), is satisfied—

- (a) that there has been or will be given in exchange for such land other land, not being less in area, and being equally advantageous to the persons, if any, entitled to rights of common or other rights, and to the public, and that the land given in exchange has been or will be vested in the persons in whom the land purchased was vested, and subject to the like rights, trusts and incidents as attached to the land purchased ; or

- (b) that the land is required for the widening of an existing highway and that the giving in exchange of other land is unnecessary, whether in the interests of the persons, if any, entitled to rights of common or other rights or in the interests of the public,

and certifies accordingly. [797]

(2) A local planning authority may be authorised, by an order made by the authority and submitted to the Minister and confirmed by him, to appropriate for the purposes of this Part of this Act any land for the time being held by them for other purposes being land to which this subsection applies, that is to say, land which is, or forms part of, a common, open space or fuel or field garden allotment (including any such land which is specially regulated by any enactment, whether public general or local or private), other than land being Green Belt land as defined in the Green Belt (London and Home Counties) Act, 1938 :

Provided that an order under this subsection shall be provisional only and shall be of no effect until confirmed by Parliament, except as mentioned in the preceding subsection. [798]

(8) Where it is proposed to certify as aforesaid, the Minister having jurisdiction to give the certificate shall give public notice of his intention so to do, and—

- (a) after affording opportunity to all persons interested to make representations and objections in relation thereto, and
- (b) after causing a public local inquiry to be held in any case where it appears to him to be expedient so to do, having regard to any representations or objections made,

the said Minister may, after considering any representations and objections made and, if an inquiry has been held, the report of the person who made the inquiry, give the certificate. [799]

(4) So soon as may be after the giving of a certificate under this section, the local planning or highway authority shall publish by Gazette and local advertisement a notice in the prescribed form stating that the certificate has been given. [800]

(5) Where—

- (a) a purchasing authority have been authorised under any enactment in this Part of this Act to purchase compulsorily land forming part of a common, open space or fuel or field garden allotment, or
- (b) a local planning authority have been authorised under subsection (2) of this section to appropriate any such land, or have been authorised in accordance with the Green Belt (London and Home Counties) Act, 1938, to appropriate for the purposes of this Part of this Act land being Green Belt land as defined in that Act,

the authority may be authorised, in a case falling within paragraph (a) of this subsection in accordance with the provisions of the enactment therein mentioned, and in a case falling within paragraph (b) thereof in accordance with the provisions of section ten of this Act, to purchase compulsorily, or they may acquire by agreement, land for giving in exchange for the land purchased or appropriated :

Provided that the power of a local planning or highway authority under this subsection to acquire land by agreement shall be exercisable only with the consent of the Minister. [801]

(6) The said Minister may, where it appears to him expedient so to do in order to secure that land given in exchange as mentioned in paragraph (a) of subsection (1) of this section shall vest in the persons, and subject to the rights, trusts and incidents, mentioned in that paragraph, make an order vesting the land as aforesaid. [802]

(7) Section one hundred and sixty-three of the Local Government Act, 1933, and section one hundred and six of the London Government Act, 1939 (which contain general provisions, extending respectively to England and Wales exclusive of London, and to London, as to the appropriation by local authorities of land belonging to them) shall not apply to land to which

subsection (2) of this section applies which is for the time being held by a local planning authority. [803]

(8) In the case of an appropriation under this section of land acquired under any enactment incorporating the Lands Clauses Acts, or acquired under any order made under any enactment and incorporating those Acts, any work executed on the land after the appropriation has been effected shall, for the purposes of section sixty-eight of the Lands Clauses Consolidation Act, 1845, be deemed to have been authorised by the enactment or order under which the land was acquired. [804]

(9) On an appropriation of land under this section there shall be made in the accounts of the authority, in the case of an authority for an area elsewhere than in London, such adjustment as the Minister of Health may direct, or, in the case of an authority for an area in London, such adjustment as may be necessary. [805]

(10) In this section the expression "common" includes any land subject to be enclosed under the Inclosure Acts, 1845 to 1882, and any town or village green; the expression "open space" means any land laid out as a public garden, or used for the purposes of public recreation, or land being a disused burial ground; and the expression "fuel or field garden allotment" means any allotment set out as a fuel allotment, or a field garden allotment, under an Inclosure Act. [806]

For definitions of expressions used in this section, see sub-s. (10). For the Green Belt (London and Home Counties) Act, 1938, see 31 Statutes 439; for s. 163 of the Local Government Act, 1938, see 26 Statutes 377; for s. 106 of the London Government Act, 1939, see 32 Statutes 310; for s. 68 of the Lands Clauses Consolidation Act, 1845, see 2 Statutes 1134.

"Fuel allotments" consist of lands provided under local Inclosure Acts before 1845, and derive their name from the fact that the rents received in respect of them were applied in providing poor parishioners with fuel.

As to "field garden allotments," see Inclosure Act, 1845, ss. 30, 31, 34, 73, 108-112, 149 (2 Statutes 452, 453, 474, 491, 508; Inclosure Act, 1852, s. 21 (2 Statutes 545); Commons Act, 1876, ss. 19, 21-24, 26-28 (2 Statutes 594, 595, 596); Commons Act, 1879, s. 2 (2 Statutes 603); Commonable Rights Compensation Act, 1882, s. 3 (2 Statutes 605); Commons Act, 1899, ss. 16, 18 (2 Statutes 611). Field garden allotments consist of lands appropriated as allotments or field gardens for the labouring poor upon the inclosure of lands or the regulation of a common.

15. Provisions as to purchase of licensed premises.—Where land purchased under this Part of this Act comprises premises in respect of which an old on-licence is in force, the following provisions shall have effect :—

- (a) the purchasing authority, before purchasing the premises, may undertake that in the event of the renewal of the licence being refused, they will pay to the compensation authority towards the compensation payable on such refusal under the Licensing (Consolidation) Act, 1910, such contribution as may be specified in the undertaking, and any sum payable by the purchasing authority in pursuance of such undertaking shall be treated as part of their expenses in purchasing the land;
- (b) if, after purchasing or contracting to purchase the premises, the purchasing authority intimate to the licensing justices that they are willing to surrender the licence, the licensing justices may refer the matter to the compensation authority and that authority, on being satisfied that the licence, if not surrendered, might properly have been dealt with as a redundant licence, shall contribute out of the compensation fund towards the compensation paid by the purchasing authority in respect of the purchase of the premises a sum not exceeding the compensation which would have been payable under the Licensing (Consolidation) Act, 1910, on the refusal of the renewal of the licence. [807]

The words "old on-licence" are not defined in this Act. The first part of Sched. II to the Licensing (Consolidation) Act, 1910 (9 Statutes 1047) contains a description of them for the purposes of that Act. The main test is whether a justices' on-licence, other than a licence for the sale of wine alone or sweets alone, was in force on August 15th, 1904, but reference should be made to the Schedule above referred to.

As to the payment of compensation on the refusal of the compensation authority to renew an old on-licence, see s. 20 of the Licensing (Consolidation) Act, 1910 (9 Statutes 1000).

For a consideration of what constitutes a redundant licence and decisions in respect thereof, reference should be made to the current edition of Paterson's Licensing Acts.

16. Validity and date of operation of orders, etc.—(1) If any person aggrieved by an order under section one of this Act, or an order authorising a compulsory purchase of land under any enactment in this Part of this Act, or a certificate or order under section fourteen of this Act, desires to question the validity thereof, or of any provision contained therein, on the ground that it is not within the powers of this Act or that any requirement of this Act or of any regulation made thereunder has not been complied with in relation to the order or certificate, he may, within twenty-eight days from the date on which notice of the making or confirmation of the order by the Minister having jurisdiction to make or conform such an order, or notice of the giving of the certificate, is first published in accordance with the provisions of this Act in that behalf, make an application to the High Court, and on any such application the Court—

(a) may by interim order suspended the operation of the order or any provision contained therein, or of the certificate, either generally or in so far as it affects any property of the applicant, until the final determination of the proceedings; and

(b) if satisfied that the order or any provision contained therein, or the certificate, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by any requirement of this Act or of any regulation made thereunder not having been complied with, may quash the order or any provision contained therein, or the certificate, either generally or in so far as it affects any property of the applicant. [808]

(3) Subject to the provisions of the preceding subsection, such an order or certificate shall not, either before or after it has been made or confirmed or given as aforesaid, be questioned in any legal proceedings whatsoever, and shall become operative on the date on which such notice as aforesaid is first published as aforesaid. [809]

(3) Except by leave of the Court of Appeal, no appeal shall lie to the House of Lords from a decision of the Court of Appeal under this section. [810]

(4) This section shall not apply to an order which is provisional only and is of no effect until confirmed by Parliament. [811]

The procedure for challenging the validity of orders laid down in this section is based on Pt. III of Sched. I to the Public Works Facilities Act, 1930 (23 Statutes 779). This procedure has been so widely adopted in legislation since 1930, that it may be said to be "common form." It occurs, for instance, in the Housing Act, 1936, Sched. 2 (28 Statutes 261), and in the Town and Country Planning Act, 1932, Sched. I, Pt. II (28 Statutes 546). There have been a few cases under the Public Works Facilities Act, and a large number under the Housing Act, 1936. Among the latter, the most noteworthy is *Re Ripon (Highfield) Housing Order, 1936, White and Collins v. Minister of Health*, [1939] 2 K. B. 838; [1939] 3 All E. R. 548; Digest Supp.

17. Registration of orders as local land charges.—(1) As soon as may be after an order under section one of this Act, or an order authorising a compulsory purchase of land under any enactment in this Part of this Act, becomes operative, it shall be registered in the prescribed manner in the register of local land charges by the proper officer of the council of each county borough or county district in which the land designated by the order or any part thereof is situated, or, if that land, or any part thereof, is situated in the

City of London or any other part of the administrative County of London, by the proper officer of the Common Council of the City of London or of the London County Council, as the case may be. [812]

(2) It shall be the duty of the authority on whose application an order under section one of this Act is made, and of the purchasing authority under an order authorising a compulsory purchase as aforesaid, as soon as may be after the order has become operative to notify that fact to the proper officer of any other authority by whom it is required to be registered as aforesaid, and to furnish to him all information relating to the order requisite in that behalf. [813]

(3) The power conferred by subsection (6) of section fifteen of the Land Charges Act, 1925, to make rules for giving effect to the provisions of that section shall be exercisable for giving effect to the provisions of this section, and in this section the expression "prescribed" means prescribed by rules made in exercise of that power. [814]

As to when an order under s. 1, *ante*, or an order authorising the compulsory purchase of land becomes operative, see s. 16, *ante*.

"Purchasing authority" includes a Minister purchasing under this Act (s. 65).

For s. 15 (6) of the Land Charges Act, 1925, see 15 Statutes 539.

18. Incorporation of Lands Clauses Acts, etc., with modifications, including modifications providing for expedited completion of purchases.—(1) The Lands Clauses Acts are hereby incorporated with this Part of this Act, subject to any necessary adaptations and to the provisions of Part I of the Fifth Schedule to this Act. [815]

(2) The Acquisition of Land (Assessment of Compensation) Act, 1919, shall, in its application for the purposes of this Part of this Act have effect subject to any necessary adaptations and subject to the provisions of Part II of the Fifth Schedule to this Act. [816]

(3) If the Minister having jurisdiction to confirm or make an order authorising a compulsory purchase of land under this Act (including such an order giving an authorisation in accordance with subsection (4) of section thirteen of this Act) is satisfied when he confirms or makes the order that it is requisite that the purchasing authority should have power, as respects the whole or any part of the land, to enter thereon and to secure the vesting thereof in the authority before the expiration of the time that would be needed for service of notices to treat, and the order as submitted or the draft of the order or the application therefor, as the case may be, contained, or included an application for, a direction in that behalf—

- (a) the order may direct that the provisions of the Sixth Schedule to this Act shall apply to the order as respects all or any of the land to which the order relates, being land as to which the said Minister is satisfied as aforesaid; and
- (b) where such an order applies those provisions the said Schedule shall have effect in relation to the order accordingly, and notices to treat shall be deemed to have been served subject to and in accordance with the provisions thereof,

An order which so directs is in this Act referred to as a "purchase order providing for expedited completion". [817]

(4) An order authorising a compulsory purchase of land under any enactment in this Part of this Act may provide that section seventy-seven of the Railways Clauses Consolidation Act, 1845 (which relates to the exception of minerals from purchases), and sections seventy-eight to eighty-five of that Act (which relate to restrictions on the working of minerals) as originally enacted and not as amended for certain purposes by section fifteen of the Mines (Working Facilities and Support) Act, 1923, or the said section seventy-seven only, shall be incorporated with this Part of this

Act as respects all or any of the land thereby authorised to be purchased, subject to such modifications of references to the railway or works, or to the company, as may be specified in the order, and for the purposes of any such incorporation this Part of this Act (together, in the case of a purchase under section four of this Act or subsection (4) of section nine of this Act, with the relevant enactment mentioned in section four of this Act), and the order, shall be deemed to be the special Act. [818]

For the Lands Clauses Acts, see 2 Statutes 1109 *et seq.* The basic Act is the Lands Clauses Act, 1845, but the application of this Act has been greatly modified by the Acquisition of Land (Assessment of Compensation) Act, 1919 (2 Statutes 1176).

"Purchasing authority" includes a Minister purchasing under this Act (s. 65, *post*).

For ss. 78-85 of the Railways Clauses Consolidation Act, 1845, see 14 Statutes 389-396; for s. 15 of the Mines (Working Facilities and Support) Act, 1923, see 14 Statutes 389.

Powers in relation to land acquired or appropriated

19. Disposal or appropriation by local planning authority of land held by them for purposes of this Part.—(1) The following provisions of this section shall have effect with respect to the disposal or appropriation by a local planning authority of land which has been acquired or appropriated and is for the time being held by them for the purposes of this Part of this Act. [819]

(2) Subject to the provisions of subsections (4) and (5) of this section, the authority may dispose of any such land to such person, in such manner and subject to such conditions as may appear to them to be expedient in order to secure the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out thereon, whether by themselves or by any other person, or to secure the erection, construction or carrying out thereon of any buildings or works appearing to them to be needed for the proper planning of the area of the authority. [820]

(3) Subject to the provisions of subsection (4) of this section, the authority may appropriate any such land for any purpose for which they are or may be authorised in any capacity to acquire land by virtue of or under any enactment other than this Part of this Act, and, in relation to an appropriation under this subsection, subsections (2) and (3) of section one hundred and sixty-three of the Local Government Act, 1933, and subsections (2) and (3) of section one hundred and six of the London Government Act, 1939 (which relate to the operation of section sixty-eight of the Lands Clauses Consolidation Act, 1845, and to adjustments in accounts, on appropriations under those sections respectively) shall have effect as they have effect in relation to appropriations under those sections respectively. [821]

(4) The consent of the Minister shall be requisite to any disposal or appropriation of land by a local planning authority under this section, and may be given as respects either a particular disposal or appropriation or disposals or appropriations of any class, and either subject to or free from any conditions or limitations. [822]

(5) The consent of the Minister to a sale by a local planning authority under this section of the freehold in any land, or to a lease by them thereunder of any land for a term of more than ninety-nine years, shall not be given unless he is satisfied that they are exceptional circumstances which render the disposal of the land in that manner expedient as mentioned in subsection (2) of this section. [823]

(6) The powers conferred by this section on a local planning authority in respect of the disposal of land thereunder, and on the Minister in respect of consent to such disposal, shall be so exercised as to secure so far as may be practicable to persons who were living, or carrying on business or other

this Part of this Act, who desire to obtain accommodation on such land, and who are willing to comply with any requirements of the authority as to the development and use of such land, an opportunity to obtain accommodation thereon on terms settled with due regard to the price at which any such land has been acquired from them. [824]

(7) If it appears to the Minister that it is expedient as mentioned in subsection (2) of this section that a local planning authority should dispose of land under this section to any person and the authority have refused to dispose of it to him or are unable to reach agreement with him as to the manner in which or the terms or conditions on or subject to which it is to be disposed of to him, the Minister may, after consultation with the authority and that person, require the authority to offer to dispose of it to him, and give directions as to the manner of the disposal and as to all or any of the terms or conditions on or subject to which it is to be offered to him :

Provided that the authority shall not be required by any such directions (except to such extent as may appear to the Minister to be requisite in any particular case for giving effect to the last preceding subsection) to offer to dispose of land for a money consideration less than the best that can reasonably be obtained, having regard to the other terms and conditions on and subject to which the offer is to be made, so, however, that in estimating the best consideration any amount which only a particular purchaser might be prepared to offer by reason of special needs of his shall be disregarded, and any difference as to what is the best consideration shall be referred to and determined by an arbitrator agreed between the Minister and the authority, or, in default of agreement, by an official arbitrator to be appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919. [825]

(8) In the exercise of the powers conferred by this section, a local planning authority shall have regard to the desirability of preserving features of special architectural or historic interest, and in particular buildings included in any list compiled or approved under the provisions of section forty-two of this Act, and the Minister shall not give his consent to the disposal or appropriation under this section of any land comprising a building included in such a list unless either—

- (a) the consent is given subject to such conditions or limitations as in the opinion of the Minister will secure the preservation of the building ; or
- (b) the Minister is satisfied, after causing such particulars as appear to him requisite of the disposal or appropriation for which his consent is sought to be published by Gazette and local advertisement not less than twenty-eight days before he gives his decision on the application for his consent, that the purpose which the local planning authority seek to achieve by the proposed exercise of their powers under this section is one which ought in the public interest to be carried out, and either that the preservation of the building would prevent the carrying out of that purpose, whether by the use of the land in question or otherwise, or that the effect of preserving the building on the carrying out as aforesaid of the said purpose would be such that notwithstanding the desirability of preserving the building it is inexpedient so to do.

In this subsection the expression “preservation,” in relation to a building, means the preservation thereof either in its existing state or subject only to such alterations or extensions as can be carried out without serious detriment to its character. [826]

(9) In this section references to disposal of land shall be construed as references to disposal thereof in any manner (otherwise than by appropria-

tion) whether by way of sale, exchange or lease, by the creation of any easement, right or privilege, or in any other manner, except disposal by way of gift, mortgage or charge. [827]

(10) In relation to land which has been acquired or appropriated and is for the time being held by a local planning authority for the purposes of this Part of this Act, this section shall have effect to the exclusion of the provisions of subsection (1) of section one hundred and sixty-three and sections one hundred and sixty-four and one hundred and sixty-five of the Local Government Act, 1933, or of subsection (1) of section one hundred and six and sections one hundred and seven and one hundred and eight of the London Government Act, 1939, as the case may be. [828]

(11) Section one hundred and sixty-six of the Local Government Act, 1933, and section one hundred and nine of the London Government Act, 1939 (which relate to the application of capital money received from the disposal of land) shall have effect as respects capital money received in respect of transactions under the provisions of this section relating to the disposal of land as they have effect in relation to capital money received in respect of such transactions as are mentioned in those sections respectively. [829]

This section confers a general power to dispose of land acquired or appropriated for the purposes of this part of the Act. Normally the freehold of the land will not be parted with, but leases will be granted for a period not exceeding 99 years (sub-s. (5)).

Conditions may be imposed by way of restrictive covenants. Further control over the re-development of land may be exercised by conditions attached to interim development permissions and by the insertion of appropriate provisions in any planning scheme in course of preparation under the 1932 Act. In some cases an agreement under s. 34 of the 1932 Act (28 Statutes 506) may be appropriate.

For ss. 163-166 of the Local Government Act, 1933, see 26 Statutes 163 *et seq.* For ss. 106-109 of the London Government Act, 1939, see 32 Statutes 310 *et seq.* For s. 68 of the Lands Clauses Consolidation Act, 1845, see 2 Statutes 1134; for the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1176.

To secure the appointment of an official arbitrator for the purpose of sub-s. (7) an application should be made in accordance with the form which occurs in the Schedule to the Acquisition of Land (Assessment of Compensation) Rules, 1919 (S. R. & O., 1919, No. 1836/20).

As to the meaning of "Gazette and local advertisements," see s. 65, *post*.

20. Power of planning authority to carry out development of land held by them for purposes of this Part.—(1) The functions of a local planning authority shall include power for the authority, notwithstanding any limitation imposed by law on the capacity of such a body by virtue of its constitution, to erect, construct or carry out on land which has been acquired or appropriated and is for the time being held by them for the purposes of this Part of this Act any building or work not being a building or work for the erection, construction or carrying out of which, whether by them or by any other person, statutory power already exists by virtue of or under an enactment other than this Part of this Act, or could be conferred under an enactment other than this Part of this Act. [830]

(2) The consent of the Minister shall be requisite to any exercise by a local planning authority of the power conferred on them by the preceding subsection, and may be given as respects either a particular operation or operations of any class, and either subject to or free from any conditions or limitations. [831]

(3) The Minister shall not give his consent for the purposes of the last preceding subsection as respects any operation if it appears to him that a person other than the local planning authority is able and willing to carry it out at such time and in such manner as may be requisite for meeting the purpose for which it is needed, on the assumption that the land in question will be made available to him on such terms and subject to such conditions as may be agreed between the authority and him, or, in the event of their disagreeing, on such terms and subject to such conditions as would be

applicable under the last preceding section on the authority being required thereunder to offer to dispose of it to him :

Provided that the limitation imposed by this subsection shall not have effect in the case of subsequent operations forming part of a project for the initiation of which the authority have incurred expenditure if those operations ought in the opinion of the Minister to be carried out by them in order to enable them to balance their expenditure in connection with the project as a whole. [832]

(4) Where a local planning authority propose to carry out any operation which they would have power to carry out by virtue only of subsection (1) of this section, they shall notify the Minister of their proposal, and the Minister may direct such advertisement by the authority as appears to him to be requisite for the purposes of the two last preceding subsections. [833]

(5) The functions of a local planning authority shall include power for the authority, notwithstanding any such limitation as is mentioned in subsection (1) of this section, to repair, maintain and insure any buildings or works on such land as is mentioned in the said subsection (1), and generally to deal therewith in a proper course of management. [834]

(6) Subsection (8) of the last preceding section shall apply to the power conferred on a local planning authority by subsection (1) of this section as it applies to the powers conferred by that section, with the substitution for references to the disposal of land of references to the carrying out of any such operation as is mentioned in subsection (1) of this section. [835]

(7) A local planning authority may, with the consent of the Minister, enter into arrangements with an authorised association, as defined in section thirty-five of the Town and Country Planning Act, 1932, for the carrying out by the association of any operation which apart from the arrangements, the local planning authority would have power under this section to carry out, on such terms (including terms as to the making of payments or loans by the authority to the association) as may be specified in the arrangements :

Provided that nothing in this subsection shall be construed as authorising such an association to carry out any operation which they would not have power to carry out apart from this subsection. [836]

(8) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning authority which is actionable at the suit of any person on any ground other than such limitation as is mentioned in subsection (1) of this section. [837]

Sub-s. (3) of the preceding section, enables local planning authorities, with the consent of the Minister, to carry out development of land acquired or appropriated by them under this Part of the Act, for a wide range of purposes, this section enlarges these powers.

For s. 35 of the Town and Country Planning Act, 1932, see 25 Statutes 505.

With reference to sub-s. (8), attention is drawn to s. 22 (1), *post*.

21. Power of local highway authority to construct new roads for purposes of this Part.—The Minister of War Transport may authorise a local highway authority to construct any new road appearing to the said Minister to be needed for any purpose in connection with which such an authority or a local planning authority may be authorised under this Part of this Act to acquire land, and where a local highway authority are authorised under this section to construct a new road the provisions of section ten of the Development and Road Improvement Funds Act, 1909 (which contains provisions as to the construction of new roads in respect of which an advance is made under that Act, as to the expenses of the construction thereof, and as to the maintenance thereof) shall have effect as if the road were a road in respect of the construction of which such an advance were made to them and as if the authorisation were given under that section. [838]

For the Development and Road Improvement Funds Act, 1909, s. 10, see 9 Statutes 210.

22. Authorisation of development on land acquired for purposes of this Part notwithstanding interference with easements, etc.—(1) The erection, construction or carrying out, or maintenance, of any building or work on land which has been acquired or appropriated by a local planning or highway authority for the purposes of this Part of this Act, whether done by the authority or by any other person, shall be deemed to be authorised by this Part of this Act if it conforms with planning control, notwithstanding that it involves interference with any easement or other servitude or breach of any restriction as to the user of land arising by virtue of any contract, but subject to payment of compensation under section sixty-three or sixty-eight of the Lands Clauses Consolidation Act, 1845, to be assessed in the same manner and subject to the same rules as in the case of other compensation under those sections in respect of injurious affection where the compensation is to be estimated in connection with a purchase by such an authority or the injury arises from the execution of works on land acquired by such an authority :

Provided that nothing in this subsection shall authorise interference with any such right as is mentioned in section twenty-five of this Act. [839]

(2) Any liability of a person other than the local planning or highway authority by whom the land in question was acquired or appropriated to pay such compensation as aforesaid which that person fails to discharge shall be enforceable against that authority :

Provided that nothing in this subsection shall be construed as affecting any agreement between the authority and any other person for indemnifying the authority against any liability under this subsection. [840]

(3) For the purposes of subsection (1) of this section, the erection, construction or carrying out, or maintenance, of any building or work shall be treated as conforming with planning control if it is done in accordance with the terms of an interim development order or of permission granted under such an order, or in conformity with the provisions of a planning scheme, and not otherwise :

Provided that for the purpose of this subsection anything done by an interim development authority, or by the authority responsible for the enforcement of any provisions of a planning scheme, shall be treated as conforming with planning control if it is done in accordance with consent granted under the provisions of this Act relating to the control of development by such authorities, or if consent is dispensed with under those provisions. [841]

(4) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning or highway authority, or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person which is actionable at the suit of any person on any ground other than such interference or breach as is mentioned in subsection (1) of this section. [842]

(5) In this section the expression "servitude" means any easement, liberty, privilege, right or advantage annexed to land and adversely affecting other land, and includes a natural right to support. [843]

For the Lands Clauses Consolidation Act, 1845, ss. 63 and 68, see 2 Statutes 1133, 1134.

"Planning scheme" means a scheme under the Town and Country Planning Act, 1932, and includes a planning scheme under the Town Planning Act, 1925, or any enactment repealed by that Act (s. 65, *post*). In this case it means a planning scheme which has come into force.

23. Power to extinguish highways over land acquired for purposes of this Part.—(1) The Minister may by order extinguish any public right of way over land which has been acquired or appropriated and is for the time being held by a local planning or highway authority for the purposes of this Part

of this Act, or which has been acquired by a Minister thereunder and is for the time being held for the purposes for which he acquired the land. [844]

(2) The Minister shall cause a notice stating the effect of any order that he proposes to make under this section, and specifying the time (not being less than twenty-eight days from the publication of the notice) within which, and the manner in which, objections to the proposal may be made, to be published in such manner as appears to him to be requisite and shall serve a like notice—

(a) on the local planning authority in whose area the land is situated, except where that authority applied for the making of the order, and

(b) on any authority being the highway authority as respects the right of way proposed to be extinguished, except where that authority applied for the making of the order ;

and the provisions of the First Schedule to this Act shall have effect in relation to the proposal if any objection thereto is duly made. [845]

(3) Where the Minister is satisfied that the construction or improvement of a road is or will be needed in consequence of the extinguishment under this section of a public right of way, the provisions of section three of this Act shall have effect as they have effect where the Minister is satisfied that the construction or improvement of a road is needed as mentioned in subsection (1) of that section. [846]

(4) Where on the application of a local planning or highway authority an order is made under this section extinguishing a public right of way, and at the time of publication of the notice required by subsection (2) of this section there was under, in, upon, over, along or across the land over which the right of way subsisted any telegraphic line belonging to or used by the Postmaster-General—

(a) the power of the Postmaster-General to remove the line shall be exercisable notwithstanding the making of the order, so however that the said power shall not be exercisable, as respects the whole or any part of the line, after the expiration of a period of three months from the date on which the right of way is extinguished unless before the expiration of that period the Postmaster-General has given notice to the local planning or highway authority of his intention to remove the line or that part thereof, as the case may be ;

(b) the Postmaster-General may by notice to the local planning or highway authority in that behalf abandon the said line or any part thereof, and shall be deemed, as respects the line or any part thereof, to have abandoned it at the expiration of the said period of three months unless before the expiration of that period he has removed it or given notice of his intention to remove it ;

(c) the Postmaster-General shall be entitled to recover from the local planning or highway authority the expense of providing, in substitution for the line and any telegraphic line connected therewith which is rendered useless in consequence of the removal or abandonment of the line, a telegraphic line in such other place as the Postmaster-General may require ;

(d) where under paragraph (b) of this subsection the Postmaster-General has abandoned the whole or any part of a telegraphic line, it shall vest in the local planning or highway authority, and the provisions of the Telegraph Acts, 1863 to 1943, shall not apply in relation to the line or part in question as respects anything done or omitted after the abandonment thereof.

In this subsection the expression "telegraphic line" has the same meaning as the Telegraph Act, 1878. [847]

As to the Acts cited as the Telegraph Acts, 1863 to 1943, see the notes to s. 2 of the 1943 Act (36 Statutes 308); "telegraphic line" is defined in s. 2 of the Telegraph Act, 1878 (19 Statutes 261).

24. Extinguishment of private ways, and rights as to apparatus, over or in land purchased for purposes of this Part.—(1) Upon the completion by the purchasing authority of a compulsory purchase under this Part of this Act of any land, all private rights of way and rights of laying down, erecting, continuing or maintaining any apparatus on under or over the land shall be extinguished and any such apparatus shall vest in the purchasing authority :

Provided that this section shall not apply to any right vested in, or any apparatus belonging to, the person carrying on a statutory undertaking for the purpose of the carrying on thereof, and shall have effect as respects other matters subject to any direction given by the purchasing authority before the completion of the purchase that this section shall not apply to any right or apparatus specified in the direction and subject to any agreement which may be made (whether before or after the completion of the purchase) between the purchasing authority and the person in or to whom the right or apparatus in question is vested or belongs. [848]

(2) Any person who suffers loss by the extinguishment of any right or the vesting of any apparatus under this section shall be entitled to be paid by the purchasing authority compensation, to be determined under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919, and section fifty-seven of this Act shall have effect in relation to compensation payable under this section and to loss suffered as therein mentioned, as it has effect in relation to compensation in respect of land injuriously affected by the execution of works on land acquired by a Government department or a local or public authority and to damage sustained by reason thereof. [849]

(3) Expenses incurred by a Minister in the payment of compensation under the last preceding subsection shall be defrayed out of moneys provided by Parliament. [850]

For the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1170.

25. Extinguishment of rights of way, and rights as to apparatus, of statutory undertakers.—(1) Where there subsists over land which has been acquired or appropriated and is for the time being held by a local planning or highway authority for the purposes of this Part of this Act, or which has been acquired by a Minister thereunder and is for the time being held for the purposes for which he acquired the land, any right of way or any right of laying down, erecting, continuing or maintaining any apparatus on under or over the land, or there is on under or over any such land any apparatus, vested in or belonging to the person carrying on a statutory undertaking for the purpose of the carrying on thereof, the authority or that Minister may serve on the said person a notice that at the expiration of such period as may be specified in the notice the right will be extinguished, or requiring that before the expiration of such period as may be so specified the apparatus shall be removed. [851]

(2) A person on whom a notice is served under the preceding subsection may before the expiration of twenty-eight days from the service of the notice serve a counter-notice on the authority or Minister stating that he objects to all or any of the provisions of the notice and specifying the grounds of his objection. [852]

(3) If no counter-notice is served under the last preceding subsection, any right to which the notice relates shall be extinguished at the end of the period specified in that behalf in the notice, and if at the end of the period

so specified in relation to any apparatus any requirement of the notice as to the removal of the apparatus has not been complied with, the authority of the said Minister may remove the apparatus and dispose thereof in any way they or he may think fit. [853]

(4) If a counter-notice is served under subsection (2) of this section on a local planning or highway authority, the authority may either withdraw the notice (without prejudice, however, to the service of a further notice) or apply to the Minister and the appropriate Minister for an order embodying, either with or without modification, the provisions of the notice, and the Minister and the appropriate Minister may if they think fit, after affording to the person carrying on the undertakings an opportunity of objecting to the application and, if any objection is made, after considering the objection and affording to the said person and to the local planning or highway authority an opportunity of appearing before and being heard by a person appointed by the Minister and the appropriate Minister for the purpose, make an order in accordance with the application, either with or without modification. [854]

(5) If a counter-notice is served under subsection (2) of this section on a Minister, either he may withdraw the notice (without prejudice, however, to the service of a further notice) or he and the appropriate Minister may make an order embodying, either with or without modification, the provisions of the notice.

Where a Minister and the appropriate Minister propose to make an order under this subsection, they shall prepare a draft of the order and shall afford to the person carrying on the undertaking an opportunity of objecting to the proposal and, if any objection is made, shall consider the objection and afford to the said person an opportunity of appearing before and being heard by a person appointed by them for the purpose, and may then make an order in accordance with the draft, either with or without modification.

[855]

(6) Subsection (3) of this section shall apply to an order made under either of the two last preceding subsections as it applies to a notice in respect of which no counter-notice is served, but with the substitution for references to a notice of references to an order. [856]

(7) Where an objection to an order under subsection (4) or (5) of this section is duly made and is not withdrawn before the making of the order, the order shall be provisional only and shall be of no effect until confirmed by Parliament. [857]

(8) In respect of the extinguishment of any right, or the imposition of any requirement, under this section the person carrying on a statutory undertaking shall be entitled to recover from the authority or Minister at whose instance the right was extinguished or the requirement was imposed compensation in accordance with Part I of the Fourth Schedule to this Act. [858]

(9) Expenses incurred by a Minister in the payment of compensation under the last preceding subsection shall be defrayed out of moneys provided by Parliament. [859]

For definitions of "local planning authority" and "local highway authority," see s. 65, *post*. The order mentioned in sub-s. (4) does not appear to be one of the orders mentioned in s. 16, *ante*. If the Minister and appropriate Minister proposed to make an order under this section "without jurisdiction" prohibition would lie, or *certiorari* where the order had actually been made. There is little doubt that the Minister has to act in a judicial capacity in making an order under this section: see *R. v. Electricity Commissioners, Ex parte London Electricity Joint Committee Co. (1920), Ltd.*, [1924] 1 K. B. 171; Digest Supp., and see *R. v. Church Assembly Legislative Committee, Ex parte Haynes Smith*, [1928] 1 K. B. 411; *R. v. Minister of Health, Ex parte Davis*, [1929] 1 K. B. 619; *R. v. North Worcestershire Assessment Committee, Ex parte Hadley*, [1929] 2 K. B. 397.

For the position of a Minister who makes a draft order and who also has to consider objections to the order: see *Re London-Portsmouth Trunk Road (Surrey) Compulsory Purchase Order (No. 2)*, 1938, [1939] 2 K. B. 515; [1939] 2 All E. R. 464; Digest Supp.

26. Extension and modification of powers and duties of statutory undertakers.—(1) Where it appears to the Minister and the appropriate Minister, on a representation made by the person carrying on a statutory undertaking, that—

- (a) in order to secure the provision of services which would not otherwise be provided, or satisfactorily provided, for any purpose in connection with which a local planning authority may be authorised under this Part of this Act to acquire land, or
- (b) in order to facilitate any adjustment of the carrying on of the undertaking necessitated by the acquisition under this Part of this Act of any land an interest in which was held, or which was used, for the purpose of the carrying on of the undertaking, or necessitated by the extinguishment of any right, or the imposition of any requirement, under the last preceding section, or necessitated by a decision on an interim development application made by the person carrying on the undertaking for permission to develop land to which section thirty-four of this Act applies or by the revocation or modification of an interim development permission granted on such an application or by the postponement of the consideration of such an application,

it is expedient that the powers and duties of the said person in relation to the carrying on of the undertaking should be extended or modified, the Minister and the appropriate Minister may by order provide for such extension or modification of the said powers and duties as appears to them to be requisite in order to secure the provision of services as mentioned in paragraph (a) of this subsection, or to facilitate the adjustment of the undertaking as mentioned in paragraph (b) of this subsection, as the case may be. [860]

(2) Without prejudice to the generality of the provisions of the preceding subsection, an order under the preceding subsection may provide—

- (a) for empowering the person carrying on the undertaking to acquire, whether compulsorily or by agreement, any land specified in the order and to erect or construct any buildings or works so specified ;
- (b) for applying in relation to the acquisition of such land and the construction of such works enactments relating to the acquisition of land and the construction of works (including the Acquisition of Land (Assessment of Compensation) Act, 1919, and Part II of this Act) ;
- (c) for giving effect, where it has been represented that the making of the order is expedient for the purposes of paragraph (a) of the preceding subsection, to such financial arrangements between the local planning authority and the person carrying on the undertaking as they may agree or, in default of agreement, as may be determined to be equitable in such manner and by such tribunal as may be specified in the order ;

and for such incidental and supplemental matters as appear to the Minister and the appropriate Minister to be expedient for the purposes of the order. [861]

(3) As soon as may be after making a representation under subsection (1) of this section, the person carrying on the undertaking in question shall publish, in such form and manner as may be directed by the Minister and the appropriate Minister, a notice giving such particulars as may be so directed of the matters to which the representation relates and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, and shall also, if it is so directed by the Minister and the appropriate Minister, serve a like notice on such persons, or persons of such classes, as may be so directed. [862]

(4) The provisions of the First Schedule to this Act shall have effect in relation to the making of an order on the representation of any objection thereto is duly made, and, subject to those provisions in a case in which they have effect, the Minister and the appropriate Minister may, if they think fit, make an order. [863]

(5) A local planning authority may represent to the Minister and the appropriate Minister that the making of an order under subsection (1) of this section as respects any statutory undertaking is expedient for the purpose of securing the provision of new services, or the extension of existing services, for any purpose in connection with which the authority may be authorised under this Part of this Act to acquire land, and where such a representation is made the preceding provisions of this section shall have effect as if the representation had been made by the person carrying on the undertaking in question, but with the substitution in subsection (3) for the reference to the person carrying on the undertaking of a reference to the local planning authority. [864]

(6) An order under this section shall be provisional only and shall be of no effect until confirmed by Parliament. [865]

This section empowers the Minister and the appropriate Minister (s. 13, *ante*, applied by s. 35, *post*) to make a Provisional Order (which shall be of no effect until confirmed by Parliament) providing for the extension or modification of the powers and duties of statutory undertakers and among other things to empower statutory undertakers to acquire land, whether by agreement or compulsorily, in order to construct buildings and works.

For the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1176.

27. Relief of statutory undertakers from obligations rendered impracticable by exercise of powers of this Part.—(1) Where on a representation in that behalf made by the person carrying on a statutory undertaking the appropriate Minister is satisfied that the compulsory purchase under this Part of this Act of any land an interest in which was held, or which was used, for the purpose of the carrying on of the undertaking, or the extinguishment thereunder of any right, or the imposition of any requirement as to the removal of apparatus, vested in or belonging to the said person, has rendered impracticable the fulfilment of any obligation of the said person incurred in connection with the carrying on of the undertaking, the appropriate Minister may by order direct that the said person shall be relieved of the fulfilment of the obligation either absolutely or to such extent as may be specified in the order. [866]

(2) As soon as may be after making a representation to the appropriate Minister under the preceding subsection, the person carrying on the undertaking in question shall, as may be directed by the appropriate Minister, either publish, in such form and manner as may be so directed, a notice giving such particulars as may be so directed of the matters to which the representation relates and specifying the time within which, and the manner in which, objections to the making of an order on the representation may be made, or serve such a notice on such persons, or persons of such classes, as may be so directed, or both publish and serve such notices. [867]

(3) The provisions of the First Schedule to this Act shall have effect in relation to the making of an order on the representation if any objection thereto is duly made, and, subject to those provisions in a case in which they have effect, the appropriate Minister may, if he thinks fit, make an order. [868]

(4) If any objection to the making of an order under this section is made and is not withdrawn before the making of the order, the order shall be provisional only and shall be of no effect until confirmed by Parliament. [869]

(5) The provisions of section sixteen of this Act as to the validity and date of operation of orders shall apply to an order made under this section as

they apply to such an order as is mentioned in the said section sixteen. [870]

28. Authorisation of use and development of consecrated land, and burial grounds, notwithstanding restrictions.—(1) Any consecrated land, whether or not including any building, which has been acquired or appropriated by a local planning or highway authority for the purposes of this Part of this Act, or which has been acquired by a Minister thereunder, may, subject to the provisions of this section, be used in any manner, whether or not involving the erection, construction or carrying out, or maintenance, of any building or work,—

- (a) in the case of land acquired by a local planning or highway authority, by that authority or by any other person, if that use conforms with planning control, or
- (b) in the case of land acquired by a Minister, by him or on his behalf for any purpose for which he acquired the land,

notwithstanding any obligation or restriction imposed under ecclesiastical law or otherwise as respects such land :

Provided that the provisions of subsection (4) of this section shall have effect to the exclusion of the provisions of this subsection as respects consecrated land being or forming part of a burial ground. [871]

(2) Any use of consecrated land authorised by the preceding subsection, and the use of any land, not being consecrated land, acquired or appropriated as therein mentioned which at the time of acquisition or appropriation included any church or other building used or formerly used for religious worship or the site thereof, shall be subject to compliance with the prescribed requirements with respect to the removal and reinterment of any human remains and the disposal of monuments or other memorials, and of fixtures and furnishings, and, in the case of consecrated land, subject to such provisions as may be prescribed for prohibiting or restricting the use of the land, either absolutely or until the prescribed consent has been obtained, so long as any church or other building used or formerly used for religious worship, or any part thereof, remains on the land. [872]

(3) Any regulations made for the purposes of the last preceding subsection—

- (a) shall contain such provisions as appear to the Minister to be requisite for securing that any use of land which is subject to compliance with the regulations shall, as nearly as may be, be subject to the like control as is imposed by law in the case of a similar use authorised by an enactment other than this Act or by a Measure or as it would be proper to impose on a disposal of the land in question otherwise than in pursuance of an enactment or Measure ;
- (b) shall contain requirements relating to the disposal of any such land as is mentioned in the last preceding subsection such as appear to the Minister requisite for securing that the provisions of that subsection shall be complied with in relation to the use of the land ; and
- (c) may contain such incidental and consequential provisions (including provisions as to the closing of registers) as appear to the Minister to be expedient for the purposes of the regulations. [873]

(4) Any land consisting of a burial ground or part of a burial ground which has been acquired or appropriated by a local planning or highway authority for the purposes of this Part of this Act, or which has been acquired by a Minister thereunder, may be used in any manner, whether or not

involving the erection, construction or carrying out, or maintenance, of any building or work,—

- (a) in the case of land acquired or appropriated by a local planning or highway authority, by that authority or by any other person, if that use conforms with planning control, or,
- (b) in the case of land acquired by a Minister, by him or on his behalf for any purpose for which he acquired the land, notwithstanding anything in any enactment relating to burial grounds or any obligation or restriction imposed under ecclesiastical law or otherwise as respects burial grounds :

Provided that this subsection shall not have effect as respects any such land which has been used for the burial of the dead until the prescribed requirements with respect to the removal and reinterment of human remains, and the disposal of monuments, tombstones or other memorials, in or upon the land have been complied with. [874]

(5) Provision shall be made by any regulations made for the purposes of subsection (2) of this section and the proviso to the last preceding subsection—

- (a) for requiring the persons in whom the land is vested to publish notice of their intention to carry out the removal and reinterment of any human remains or the disposal of any tombstones, monuments or other memorials ;
- (b) for enabling the personal representatives or relatives of any deceased person themselves to undertake the removal and reinterment of the remains of the deceased, and the disposal of any tombstone, monument or other memorial commemorating the deceased, and for requiring the persons in whom the land is vested to defray the expenses of such removal, reinterment and disposal, not exceeding such amount as may be prescribed ;
- (c) for requiring compliance with such reasonable conditions, if any, as may be imposed, in the case of consecrated ground, by the Bishop of the diocese, with respect to the manner of removal, and the place and manner of reinterment of any human remains, and the disposal of any tombstones, monuments or other memorials, and with any directions given in any case by the Secretary of State with respect to the removal and reinterment of any human remains.

Any expenses incurred by a government department under paragraph (b) of this subsection shall be defrayed out of moneys provided by Parliament. [875]

(6) Subject to the provisions of any such regulations as aforesaid, no faculty shall be required for the removal and reinterment in accordance with the regulations of any human remains, or for the removal and disposal of any tombstones, monuments or other memorials, and the provisions of section twenty-five of the Burial Act, 1857 (which prohibits the removal of human remains without a licence of the Secretary of State except in certain cases) shall not apply to a removal carried out in accordance with the regulations. [876]

(7) In this section—

- (a) the expression “ burial ground ” includes any churchyard, cemetery or other ground, whether consecrated or not, which has at any time been set apart for the purpose of interment ;

- (b) references to conformity with planning control shall be construed in accordance with subsection (3) of section twenty-two of this Act, with the substitution for references therein to anything done as therein mentioned of references to any use of land, whether or not involving the doing of any such thing. [877]

(8) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning or highway authority, or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person that is actionable at the suit of any person on any ground other than contravention of any such obligation, restriction or enactment as is mentioned in subsection (1) or (4) of this section. [878]

For s. 25 of the Burial Act, 1857, see 2 Statutes 236.

29. Authorisation of use and development of open spaces, etc., notwithstanding restrictions.—(1) Any land being, or forming part of, a common, open space or fuel or field garden allotment, which has been acquired or appropriated by a local planning or highway authority for the purposes of this Part of this Act, or which has been acquired by a Minister thereunder, may be used in any manner, whether or not involving the erection, construction or carrying out, or maintenance, of any building or work,—

- (a) in the case of land acquired or appropriated by a local planning or highway authority, by that authority or by any other person if that use conforms with planning control, or,
 (b) in the case of land acquired by a Minister, by him or on his behalf for any purpose for which he acquired the land,

notwithstanding anything in any enactment relating to land of that kind, including any enactment, whether public general or local or private, by which any such land is specially regulated. [879]

(2) In this section—

- (a) the expressions “common”, “open space” and “fuel or field garden allotment” have the meanings assigned to them respectively by section fourteen of this Act;
 (b) the reference to conformity with planning control shall be construed in accordance with subsection (3) of section twenty-two of this Act, with the substitution for references therein to anything done as therein mentioned of references to any use of land, whether or not involving the doing of any such thing. [880]

(3) Nothing in this section shall be construed as authorising any act or omission on the part of a local planning or highway authority, or of any body corporate, in contravention of any limitation imposed by law on the capacity of such a body by virtue of its constitution, or as authorising any act or omission on the part of any person that is actionable at the suit of any person on any ground other than contravention of any such enactment as is mentioned in subsection (1) of this section. [881]

This section removes any doubt which might otherwise exist as to whether land which formed part of a common or open space, etc., acquired or appropriated under this part of the Act, could be used freely in connection with a plan of redevelopment.

30. Provisions as to displacements from land acquired for purposes of this Part.—(1) Where the carrying out of redevelopment on land acquired or appropriated by a local planning or highway authority for the purposes of this Part of this Act will involve the displacement of persons residing in premises thereon, it shall be the duty of the authority, in so far as there is

not other residential accommodation available on reasonable terms, to secure the provision of such accommodation in advance of the displacements from time to time necessary as the redevelopment proceeds. [882]

(2) Section one hundred and thirty-seven of the Housing Act, 1936 (which imposes obligations as to the provision of housing accommodation where land is acquired under statutory powers) shall not have effect in relation to an acquisition under this Part of this Act. [883]

(3) If the Minister certifies that possession of any house which has been acquired or appropriated and is for the time being held by a local planning or highway authority for the purposes of this Part of this Act is immediately required for the purposes for which it was acquired or appropriated, nothing in the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, shall be deemed to prevent the acquiring or appropriating authority from obtaining possession of the house. [884]

(4) Where possession of any building, or any part of a building, which has been acquired or appropriated by a local planning or highway authority for the purposes of this Part of this Act, or which has been acquired by a Minister thereunder, is required by them or him for the purposes for which it was acquired or appropriated, then, whatever may be the value or rent of the building or part of a building, they or he may obtain possession thereof under the Small Tenements Recovery Act, 1838, as in the cases therein provided for, at any time after the tenancy of the occupier has expired or has been determined. [885]

(5) A local planning or highway authority or a Minister may pay to any person who is displaced in the carrying out of redevelopment on land which has been acquired or appropriated by the authority or Minister for the purposes of or under this Part of this Act, such reasonable allowance as they think fit towards his expenses in removing, and to a person carrying on any business in a building from which he is so displaced they may pay also such reasonable allowance as they think fit towards the loss which, in their opinion, he will sustain by reason of the disturbance to his business consequent on his having to quit the building and in estimating that loss they shall have regard to the period for which the premises occupied by him might reasonably have been expected to be available for the purpose of his business and the availability of other premises suitable for that purpose. [886]

Sub-s. (1) imposes a duty on the local planning authority or highway authority to provide residential accommodation for persons who will be displaced, in so far as there is not other residential accommodation available.

For s. 137 of the Housing Act, 1936, see 29 Statutes 668.

For the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, see 10 Statutes 332, 361, 365, 374; 26 *ibid.* 266; 28 *ibid.* 119; 31 *ibid.* 387; 32 *ibid.* 971.

For the Small Tenements Recovery Act, 1838, see 10 Statutes 324.

Planning Provisions

31. Duty of local planning authority to furnish information to the Minister.

—(1) It shall be the duty of a local planning authority, on a request in that behalf being made to them by the Minister, to furnish to him, in such manner as he may direct, such particulars of their proposals for the time being for the planning of their area as he may consider requisite for enabling him to consider properly the expediency of his confirming or making a compulsory purchase order under this Part of this Act, of his giving his consent to or requiring a disposal or appropriation of land by the authority thereunder, of his giving his consent to the carrying out by them thereunder of building operations or any other authorisation or approval for the purposes of this Part of this Act, or the manner in which any other jurisdiction conferred on the Minister by this Part of this Act ought to be exercised by him. [887]

(2) The power of the Minister under subsection (2) of section six of the Town and Country Planning (Interim Development) Act, 1943 (which enables the Minister to give directions requiring interim development authorities to furnish him with such information with respect to interim development applications received by them as he considers necessary or expedient for the purpose of enabling him to cause an application to be referred to him under subsection (1) of that section) shall include power to require the furnishing of such information with respect to interim development applications (including information as to the manner in which any such application has been dealt with) as he may consider requisite for the purpose of enabling him to consider properly the expediency of his exercising any of his functions under that Act. [888]

Sub-s. (1) confers power on the Minister to require particulars of re-planning proposals to be furnished to him.

Sub-s. (2) enables the Minister to obtain essential information regarding the way interim development applications are being dealt with, and strengthen his powers of control and supervision with regard to this matter.

For s. 6 (2) of the Town and Country Planning (Interim Development) Act, 1943, see 36 Statutes 247.

32. Control of development carried out by interim development authorities and responsible authorities.—(1) Subject to the provisions of this section and of any regulations made thereunder—

- (a) the authority empowered by an interim development order to permit the development of any land shall not, except with the consent of the Minister, carry out on that land any development other than development which is permitted by the interim development order itself;
- (b) the authority responsible for the enforcement of any provisions of a planning scheme shall not, except with the consent of the Minister, carry out any development to which those provisions apply other than development which, if they were not so responsible, they would be entitled to carry out thereunder without the permission or approval of the responsible authority;

and the consent of the Minister under this section may be given either as respects any particular development or as respects development of any description, and either subject to or free from any conditions or limitations. [889]

(2) If any development for which the consent of the Minister is required under this section is carried out by an interim development authority or a responsible authority without such consent, or if any conditions or limitations imposed on the grant of such consent (including conditions or limitations as to the period for which any building or use may be maintained or continued) are not complied with, the Minister may, if he thinks fit, give directions to the authority requiring them to take such steps in respect thereof (whether by the removal or alteration of any building or work the discontinuance of any use, or the reinstatement of any land) as he considers requisite having regard to the provisions of the scheme, or, as the case may be, to the provisions which ought in his opinion, to be included in the proposed scheme; and any such directions shall be enforceable, on an application made on behalf of the Minister, by mandamus;

Provided that before giving any directions under this subsection the Minister shall give notice to the authority of his intention so to do, and shall, if they so require, afford them an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose. [890]

(3) In relation to any development by an interim development authority who carry on a statutory undertaking, being development carried out upon

land to which section thirty-four of this Act applies, the reference in paragraph (a) of subsection (1) of this section to the Minister shall be construed as a reference to the Minister and the appropriate Minister; and paragraph (b) of subsection (1) of section twenty-six of this Act, the proviso to subsection (1) of section thirty-five of this Act, and subsections (2) (3) (6) and (7) of the last-mentioned section, shall apply in relation to any application for consent under this section in respect of any such development as if in the said subsection (7) for the reference to section three of the Town and Country Planning (Interim Development) Act, 1943, there were substituted a reference to subsection (1) of this section. [891]

(4) For the purposes of section forty-one of the Town and Country Planning Act, 1932 (which provides that the provisions of a planning scheme shall not apply to land held or used by statutory undertakers for the purposes of their undertaking except in so far as they consent thereto) a responsible authority who carry on a statutory undertaking shall be deemed to consent to the application of the provisions of the scheme to any land belonging to them which is held or used by them for the purposes of that undertaking unless and until they have given to the Minister notice in writing stating that they withhold the consent. [892]

(5) The Minister may make regulations with respect to the manner in which applications for consent may be made under this section, and with respect to the granting of consent thereunder, and in particular provision may be made by any such regulations—

(a) for dispensing, in relation to any such development as may be determined by or under the regulations, with the necessity for such consent;

(b) for securing that, in such cases and subject to such conditions as may be so specified, an application for the sanction of the Minister or of any government department or authority, made in respect of any development under any enactment other than this section, shall be treated as a sufficient application for such consent. [893]

(6) Except as expressly provided by this section, the provisions of the Town and Country Planning Acts, 1932 and 1943, and of this Act relating to interim development applications and the revocation or modification of permission granted thereon shall not apply to an application for consent made under this section by an interim development authority. [894]

Formerly interim development authorities and responsible authorities had not to seek permission for any development which they themselves proposed to carry out. Now, subject to the provisions of this section and to any regulations made thereunder, they must obtain the permission of the Minister. The coming into force of the section is, however, in effect delayed for a period not exceeding six months from November 18, 1944, by the Town and Country Planning (Development Authorities) Regulations, 1944, S. R. & O., 1944, No. 1309, *post*.

The hearing under sub-s. (2) need not take the form of a local inquiry. The functions of the Minister in this case though sufficiently judicial to support an application for an order of prohibition or *certiorari* are not strictly judicial, because the Minister is not deciding a dispute between two parties.

Sub-ss. (3) and (4) deal with the case where the interim development authority or responsible authority are acting in their capacity as statutory undertakers.

For s. 3 of the Town and Country Planning (Interim Development) Act, 1943, see 36 Statutes 243.

For s. 41 of the Town and Country Planning Act, 1932, see 25 Statutes 302.

33. Power to suspend planning schemes and reimpose interim development control.—(1) Where a resolution to prepare or adopt a planning scheme revoking or varying an existing scheme has taken effect (whether before or after the commencement of this Act), or where the Minister proposes, in exercise of his powers under subsection (4) of section eight of the Town and Country Planning Act, 1932, to make a planning scheme revoking or varying an existing scheme, then if it appears to the Minister that it is expedient so to do—

- (a) for securing that any development prohibited by the existing scheme may be carried out notwithstanding the provisions of that scheme, or
- (b) for securing that any development permitted by the existing scheme may be controlled,

he may by order suspend the provisions of the existing scheme pending the coming into operation of the revoking or varying scheme; and any such order may suspend the provisions of the scheme either as respects the whole of the area to which the revoking or varying scheme is to apply or as respects any part thereof specified in the order, and either as respects all development or as respects development of any class so specified. [895]

(2) The provisions of section fifteen of the Land Charges Act, 1925, as to the registration of local land charges shall apply in relation to an order under this section as they apply in relation to a resolution to prepare or adopt a planning scheme. [896]

(3) Where the provisions of an existing scheme are suspended by virtue of an order under this section, then, notwithstanding anything in subsection (9) of section ten of the Town and Country Planning Act, 1932, the provisions of the Town and Country Planning Acts, 1932 and 1943, with respect to the control of interim development shall, as from the date on which the order is registered in accordance with the last foregoing subsection, apply to development to which the order relates, and shall so apply as if the resolution had taken effect on that date; and in relation to any such development the material date for the purposes of the revoking or varying scheme shall be the date on which the order was registered as aforesaid or such later date as may be specified in that scheme, but without prejudice to the proviso to the definition of "the material date" contained in section fifty-three of the Town and Country Planning Act, 1932 (which specifies the material date in relation to any provision of a scheme which is revoked by a scheme containing the same or a similar provision). [897]

(4) Subject to the foregoing provisions of this section, the provisions of section ten of the Town and Country Planning Act, 1932, shall not apply to a resolution to prepare or adopt a planning scheme revoking an existing scheme, and accordingly, subsection (9) of that section shall have effect as if after the word "scheme", in the third place where that word occurs, there were inserted the words "revoking or". [898]

For ss. 8 (4), 10 and 53 of the Town and Country Planning Act, see 25 Statutes 481, 482, 520.

For s. 15 of the Land Charges Act, 1925, see 15 Statutes 538.

34. Statutory undertakers : interim development control.—(1) The provisions of the three next succeeding sections shall have effect as respects interim development of applications for permission for the interim development, by the person carrying on a statutory undertaking, of land to which this section applies, the revocation or modification of such permission, and the postponement of the consideration of applications for such permission. [899]

(2) The land to which this section applies is, in relation to any statutory undertaking, land which is used for the purpose of the carrying on of that undertaking, or in which an interest is held for that purpose, other than any such land which is in respect of its nature or situation comparable rather with the generality of land subject to interim development control than of land which is used, or in which interests are held, for the purpose of the carrying on of statutory undertakings. [900]

(3) Any question arising under any of the three next succeeding sections whether land is land to which this section applies shall be determined by the Minister and the appropriate Minister. [901]

For the protection afforded to statutory undertakers under the Town and Country Planning Act, 1932, see s. 41 of that Act (25 Statutes 411).

35. Statutory undertakers : applications for interim development permission.—(1) Where the person carrying on a statutory undertaking appeals to the Minister from a decision on an interim development application for permission to develop land to which the last preceding section applies, or such an application made by the person carrying on a statutory undertaking is referred to the Minister, the decision on the appeal or application, as the case may be, shall be given by the Minister and the appropriate Minister :

Provided that where, under the enactments regulating the carrying on of the statutory undertaking, the sanction of a government department or the Electricity Commissioners is required for the carrying out of the development in question, or for the borrowing or application of moneys to defray the cost thereof, the Minister and the appropriate Minister shall not be required to give a decision on the appeal or application until such sanction has been obtained. [902]

(2) Where the preceding subsection has effect, and the Minister and the appropriate Minister propose to refuse permission or to grant permission subject to conditions, they shall notify to the person carrying on the undertaking in question the decision which they propose to give, and if within twenty-eight days from the date on which he receives the notification that person makes application to the appropriate Minister in that behalf, the decision shall be embodied in an order made by the Minister and the appropriate Minister. [903]

(3) An order under this section shall be provisional only and shall be of not effect until confirmed by Parliament. [904]

(4) The provisions of the Town and Country Planning Acts, 1932 and 1943, shall apply to a decision given under this section as if it were a decision given by the Minister. [905]

(5) In respect of any decision given under this section refusing permission, or granting permission subject to conditions, the person carrying on the statutory undertaking in question shall be entitled to cover compensation from the interim development authority in accordance with Part I of the Fourth Schedule to this Act. [906]

(6) Section twenty-seven of this Act shall apply in relation to obligations of the person carrying on a statutory undertaking the fulfilment of which is rendered impracticable by a decision given under this section as it applies to the obligations referred to in subsection (1) of the said section twenty-seven. [907]

(7) Notwithstanding anything in section three of the Town and Country Planning (Interim Development) Act, 1943, a decision given under this section shall not be such as to grant permission for the erection, construction or carrying out of any building or work, or the use of any building or land, for a limited period only. [908]

This section contains some important modifications of the law relating to interim development, applications and appeals in favour of statutory undertakers.

- (1) If permission is refused or granted subject to conditions, the person carrying on the statutory undertaking will be entitled to recover compensation (sub-s. (5)).
 - (2) An appeal from a decision of an interim development authority will be decided by the Minister and the appropriate Minister (sub-s. (1)).
 - (3) Similarly, where an application is referred to the Minister for decision (see 1943 Act, s. 6 ; 25 Statutes 247), the decision will be given by the Minister and the appropriate Minister (sub-s. (1)).
 - (4) If the decision in an appeal or an application is unfavourable to the statutory undertakers, the latter can require that the order embodying the decision shall be provisional only and of no effect until confirmed by Parliament (sub-ss. (2) and (3)).
 - (5) Interim development consents are not to be for a limited period only (sub-s. (7)).
- For s. 3 of the Town and Country Planning (Interim Development) Act, 1943, see 36 Statutes 243.

36. Statutory undertakers : revocation of interim development permission.—(1) Section four of the Town and Country Planning (Interim Develop-

ment) Act, 1943 (which relates to the revocation and modification of interim development permissions) shall have effect subject to the following provisions of this subsection as respects any permission granted, on an interim development application made by the person carrying on a statutory undertaking, for the development of land to which section thirty-four of this Act applies :—

- (a) the consent required for the making of an order revoking or modifying the permission shall be given by the Minister and the appropriate Minister ;
- (b) the power of the Minister to make an order on behalf of an interim development authority shall be exercised by the Minister and the appropriate Minister ;
- (c) where the Minister and the appropriate Minister propose to give such a consent or make such an order, they shall notify to the person carrying on the statutory undertaking the fact that they so propose, and afford him an opportunity of objecting to the proposal ;
- (d) if any objection is made to the giving of such a consent and not withdrawn, the consent shall be embodied in an order which shall be provisional only and shall be of no effect until confirmed by Parliament ;
- (e) if any objection is made to the making of such an order and not withdrawn, the order shall be provisional only and shall be of no effect until confirmed by Parliament ;
- (f) the person carrying on the undertaking shall be entitled to recover compensation from the interim development authority in accordance with Part I of the Fourth Schedule to this Act. [909]

(2) Section twenty-seven of this Act shall apply in relation to obligations of the person carrying on a statutory undertaking the fulfilment of which is rendered impracticable by the revocation or modification of any such permission as is mentioned in the preceding subsection as it applies to the obligations referred to in subsection (1) of the said section twenty-seven. [910]

For s. 4 of the Town and Country Planning (Interim Development) Act, 1943, see 36 Statutes 244.

In a case where an authority proposed to make an order under s. 4 in respect of development which had already been completed, the Minister expressed the opinion that the section did not apply to development which had been completed and asked the authority whether in these circumstances, they proposed to proceed to make the order and submit it to him for his consent thereto.

37. Statutory undertakers : postponement of interim development applications.—(1) The power conferred by section two of the Town and Country Planning (Interim Development) Act, 1943, to postpone the consideration of an interim development application shall not be exercisable as respects applications made by the person carrying on a statutory undertaking for permission to develop land to which section thirty-four of this Act applies, in relation to such an application made after the expiration of five years from the commencement of this Act, or in relation to such an application made before the expiration of the said five years so as to postpone the consideration thereof beyond the expiration of the said five years. [911]

(2) Without prejudice to the preceding subsection, where the person carrying on a statutory undertaking makes an interim development application for permission to develop land to which section thirty-four of this Act applies, he may at the time of making the application require that the power to postpone consideration of the application shall be exercisable by

the Minister and the appropriate Minister; and where such a requirement is made the said power shall be exercisable accordingly, and—

- (a) the references in subsection (2) of section two of the said Act of 1943 to the interim development authority shall be construed as references to the Minister and the appropriate Minister;
- (b) the references in subsections (2) and (3) of the said section two to a notice of postponement, and to the service thereof in the prescribed manner, shall be construed as references to written notification of the decision of the Minister and the appropriate Minister to postpone consideration of the application, and to the giving of the notification to the applicant. [912]

For s. 2 of the Town and Country Planning (Interim Development) Act, 1943, see 36 Statutes 241.

Sub-s. (2) enables the statutory undertakers to require that the power to postpone consideration of the application shall be exercised by the Minister and appropriate Minister instead of by the interim development authority. This will not, presumably, be construed as an invitation to postpone consideration of the application, but will simply take the question out of the hands of the interim development authority and place it in the hands of the Minister and appropriate Minister. (As to the meaning of "appropriate Minister," see s. 13 (7), *ante*).

38. Interim development orders : exclusion of permission in particular areas or particular cases.—Any interim development order made under section ten of the Town and Country Planning Act, 1932, being an order which itself permits any development of land, may provide for enabling directions to be given thereunder, either by the Minister or by the interim development authority, excluding the permission so granted either in relation to the carrying out of development in any particular area or in relation to the carrying out of any particular development. [913]

For s. 10 of the Town and Country Planning Act, 1932, see 25 Statutes 482.

The present section empowers the Minister to insert in an interim development order, which itself permits the development of land, a provision enabling directions to be given either by the Minister or by an interim development authority excluding the permission so granted—that is to say, granted by the order itself—either in relation to the carrying out of development in any particular area or in relation to the carrying out of any particular development.

For power to revoke or modify interim development permissions granted on an interim development application, see the Town and Country Planning (Interim Development) Act, 1943, s. 4 (36 Statutes 244).

For power to revoke an interim development order, see *ibid.*, s. 11 (36 Statutes 250).

Copies of interim development orders, made by the Minister from time to time, may be obtained from H.M. Stationery Office.

39. Suspension of byelaws, etc., by interim development order or other planning force : additional powers.—(1) The power conferred by subsection (8) of section ten of the Town and Country Planning Act, 1932, to authorise by an interim development order the suspension of enactments contained in local Acts and of orders, byelaws or regulations shall include power to provide for suspending the operation of any enactment contained in the Public Health (Buildings in Streets) Act, 1888, sections thirty-three and thirty-four of the Public Health Act, 1925, section five of the Roads Improvement Act, 1925, section one hundred and seven of the Public Health Act, 1936, or section one hundred and forty of the Public Health (London) Act, 1936. [914]

(2) Where the Minister is satisfied that it is expedient so to do for the purpose of securing the carrying out of any development in conformity with the provisions of a planning scheme, he may, upon application in that behalf made to him by the responsible authority, by order relax in relation to that development any enactment, order, byelaw or regulation for the suspension of which provision may be made under the said subsection (8) as amended by this section. [915]

For s. 10 (8) of the Town and Country Planning Act, 1932, see 25 Statutes 484.

S. 11 (1) of the 1932 Act (*ibid.*) enacts *inter alia* that where it is expedient in order to promote proper planning or development, a scheme may provide for suspending the operation of any provision, whether contained in a statute or in an order, byelaw, or regulation, whatever authority made, in so far as that provision is similar to, or inconsistent with, any of the pro-

visions of the scheme. By para. 2 (1) of Pt. I of Sched. I (25 Statutes 526) scheme which contains a provision suspending the operation of a statutory enactment, *other than an enactment which is an excepted enactment* for the purposes of this paragraph shall not be capable of coming into operation until a resolution approving the suspension has been passed by each House of Parliament. Among the "excepted" enactments mentioned in para. 2 (2) are the following:—

The Public Health (Buildings in Streets) Act, 1888 (13 Statutes 810).

Ss. 30 to 34 of the Public Health Act, 1925 (*ibid.*, 1126–1130).

S. 5 of the Roads Improvement Act, 1925 (9 Statutes 223).

S. 112 of the Public Health Act, 1875 (13 Statutes 670) as extended by s. 51 of the Public Health Acts Amendment Act, 1907 (*ibid.*, 930) (repealed and replaced by a similar provision in s. 107 of the Public Health Act, 1936 (29 Statutes 403)).

The effect of sub-s. (1) of the present section is that the power of suspending "excepted" enactments (except ss. 30, 31 and 32 of the Public Health Act, 1925) may be conferred on interim development authorities and be exercised by them pending the coming into operation of a scheme: thus interim development powers and scheme powers in relation to this matter are brought almost into line.

The power to relax "excepted" enactments, byelaws, etc., conferred by sub-s. (2) is new: there is no corresponding power (except the power of suspension) under a scheme.

40. Establishment of joint committees for planning purposes.—(1) A joint committee may be appointed under section three of the Town and Country Planning Act, 1932, or constituted by an order under section four of that Act, for any purpose connected with the preparation of a planning scheme, or with any matter preliminary to the preparation of such a scheme, including the keeping under review of planning schemes, whether operative or not, relating to the areas of any of the constituent authorities or any part thereof. [916]

(2) Any such committee may be empowered to prepare a planning scheme, varying a planning scheme relating to the area of any of the constituent authorities or any part thereof, or supplementary to any such scheme. [917]

For ss. 3 and 4 of the Town and Country Planning Act, 1932, see 25 Statutes 473, 474. An amendment is made in s. 4 by s. 9 (3) of the Town and Country Planning (Interim Development) Act, 1943 (36 Statutes 250).

As far as the preparation of a scheme is concerned, it is difficult to see in what way the present section extends the law; s. 3 of the 1932 Act seems wide enough to embrace all the points mentioned, except the keeping under review of operative schemes.

41. Application to agricultural buildings of provisions of planning schemes as to buildings.—Subsection (3) of section twelve of the Town and Country Planning Act, 1932 (which provides that the provisions of a planning scheme with respect to buildings shall not apply in relation to buildings used for the purposes of agriculture except in certain cases) shall cease to have effect:

Provided that—

(a) for the purposes of any planning scheme which is in operation at the date of the commencement of this Act, any building erected before that date, being a building to which the scheme would not apply for this section, shall be treated as an existing building; and

(b) for the purposes of any planning scheme which comes into operation after the date of the commencement of this Act, any building erected before that date, being a building of any description specified in the said subsection (3), shall be treated as an existing building, and the provisions of section five of the Town and Country Planning (Interim Development) Act, 1943 (which enables interim development authorities to pull down buildings erected after the commencement of that Act otherwise than in accordance with the terms of the interim development order or of permission granted thereunder) shall not apply thereto. [918]

As a result of this amendment it will now be possible to exercise interim development control over the erection of agricultural buildings.

For s. 12 (3) of the Town and Country Planning Act, 1932, see 25 Statutes 486; and for s. 5 of the Town and Country Planning (Interim Development) Act, 1943, see 36 Statutes 245.

42. Designation of buildings of special architectural or historic interest.—

(1) With a view to the guidance of local authorities in the performance of functions under the Town and Country Planning Act, 1932, and this Act in relation to buildings of special architectural or historic interest, the Minister may compile lists of such buildings, or approve, either with or without modifications, such lists compiled by other persons or bodies of persons, and may amend any list compiled or approved under this section. [919]

(2) As soon as may be after any list has been compiled or approved under this section or any amendments of such a list have been made, a copy of so much of the list as relates to the area of any local planning authority (or, if the list is a list approved subject to modifications, a copy of so much of the list as modified as relates to their area) or of so much of the amendments as relate thereto, as the case may be, certified by or on behalf of the Minister to be a true copy thereof, shall be deposited with the clerk of the local planning authority, and also, where that authority is not the council of a county borough, with the clerk of the council of the county in which the area is situated. [920]

(3) As soon as may be after the inclusion of any building in a list under this section, whether on the compilation or approval of the list or by the amendment thereof, or as soon as may be after any such list has been amended by the exclusion of any building therefrom, the Minister shall serve a notice on every owner and occupier of the building stating that the building has been included in, or excluded from, the list, as the case may be. [921]

(4) Before compiling or amending any list under this section, or approving any list thereunder either with or without modifications, the Minister shall consult with such persons or bodies of persons as appear to him appropriate as having special knowledge of or interest in buildings of architectural and historic interest. [922]

Under this section the Minister may :

- (1) compile lists of buildings of special architectural or historic interest ;
- (2) approve, either with or without modifications such lists compiled by other persons or bodies of persons ; and
- (3) amend any list compiled or approved under this section.

One of the objects with which a planning scheme may be made under the 1932 Act, is the preservation of buildings of special architectural or historic interest and special powers as are conferred on local authorities by s. 17 of the 1932 Act (25 Statutes 490) enabling them by means of orders to preserve such buildings pending and subsequent to a scheme coming into operation.

See in connection with this section the provision contained in s. 43 (5), *post*.

43. Preservation of buildings of special architectural or historic interest.—

(1) The power of a local authority under section seventeen of the Town and Country Planning Act, 1932, to prohibit the demolition of any building of special architectural or historic interest shall include power to make an order directing that without the consent of the authority the building shall not, in any way prohibited by the order, be altered or extended. [923]

(2) In accordance with the preceding subsection the power of a local authority to vary an order under the said section seventeen shall include power as respects any order made under that section (whether before or after the commencement of this Act) by a subsequent order thereunder to vary the order by adding thereto such a direction as is mentioned in the preceding subsection. [924]

(3) An order giving or adding such a direction as aforesaid shall not be made by the authority or approved by the Minister unless the authority or the Minister, as the case may be, are or is satisfied that the alteration or extension of the building in the way prohibited would seriously affect the character of the building. [925]

(4) Subsection (2) of the said section seventeen (under which an order prohibiting the demolition of a building is of no effect until approved by

the Minister, and the Minister is required to consider representations of the owner of the building before approving such an order) shall apply to an order giving or adding such a direction as aforesaid, and subsection (3) of the said section seventeen (which provides for an appeal to the Minister in certain cases) shall have effect as if the reference to the demolition of a building included a reference to the alteration and to the extension thereof.

[926]

(5) No person shall execute, or cause or permit to be executed, any work for the purpose of demolishing a building to which this subsection applies, that is to say, a building included in a list compiled or approved under the provisions of the last preceding section, not being a building as respects which an order under the said section seventeen is for the time being in force or a building falling within subsection (5) of that section (which relates to ancient monuments and certain other buildings), or for the purpose of altering or extending a building to which this subsection applies in any way which would seriously affect the character thereof, unless at least two months before the work is executed notice in writing has been given to the local planning authority of the proposed demolition, alteration or extension :

Provided that nothing in this subsection shall render unlawful the execution of any such work as aforesaid which is urgently necessary in the interests of safety or health, or for the preservation of the building or of neighbouring property, so long as notice is given as aforesaid as soon as may be after the necessity for the work arises. [927]

(6) Where a local planning authority receive a notice under the last preceding subsection they shall as soon as may be send a copy of the notice to the Minister and, except where the authority is the council of a county borough, to the council of the county in which the area of the authority is situated, and in either case to such other persons or bodies of persons as may be specified by the Minister either generally or as respects the building in question. [928]

(7) If any owner of a building executes, or causes or permits to be executed, any work for the purpose of demolishing, altering or extending the building in contravention of an order in force under the said section seventeen, or if any person contravenes the provisions of subsection (5) of this section, the said owner or person, as the case may be, shall be liable on summary conviction to a fine not exceeding fifty pounds, and the court by whom he is convicted may in addition order him to pay such sums as the court think just for the purpose of restoring the building, so far as may be, to its former state. [929]

(8) Where an order under the said section seventeen has come into operation as respects any building, the authority by whom the order was made may at any time serve notice of the order on any person not being an owner of the building, and where such notice has been served the provisions of the last preceding subsection shall apply in relation to the persons on whom it was served as if he were an owner of the building. [930]

(9) A local authority having power to make an order under the said section seventeen as respects any building—

- (a) may, with the consent of the Minister, acquire by agreement the building and any land comprising or contiguous or adjacent to it which appears to the authority and the Minister to be required for maintaining it or the amenities thereof, or for affording access thereto, or for the proper control or management thereof ;
- (b) if an order under the said section seventeen is in force as respects the building and it appears to the authority and the Minister that reasonable steps required for properly maintaining the building will not be taken unless the powers of this paragraph are exercised,

may be authorised to purchase the building and any such land as aforesaid compulsorily, by means of an order made by the authority and submitted to the Minister and confirmed by him in accordance with the provisions of Part I of the Second Schedule to this Act. [931]

(10) A local authority shall have power, as respects any land acquired by them under this section, to repair, maintain and insure any buildings or works on the land and generally to deal therewith in a proper course of management, and may with the consent of the Minister dispose of any land so acquired in any manner which appears to the authority and the Minister expedient for, or consistent with, securing the object for which the land was acquired.

Subsections (9) to (11) of section nineteen of this Act shall apply in relation to the disposal of land under this section as they apply in relation to the disposal of land under that section. [932]

(11) Works specified by the Minister as being required for properly maintaining a building as respects which an order under the said section seventeen is in force and which is settled land within the meaning of the Settled Land Act, 1925, shall be added to the classes of works specified in Part II of the Third Schedule to that Act (which specifies improvements in or towards payment of which capital money may be applied, without any scheme being first submitted to the trustees of the settlement or the court, subject to provisions under which repayment of capital money applied may be required to be made out of income). [933]

For s. 17 of the Town and Country Planning Act, 1932, see 25 Statutes 490.

The object of the present section is to strengthen and improve the powers conferred on local authorities under s. 17 of the 1932 Act and to make these powers more effective.

For Pt. II of Sched. III to the Settled Land Act, 1925, see 17 Statutes 969.

44. Appeals in respect of design or external appearance of buildings.—

Where, in accordance with paragraph (c) of subsection (1) of section twelve of the Town and Country Planning Act, 1932, provision is made by a planning scheme for enabling the responsible authority to regulate the design or external appearance of buildings, any appeal under that subsection from a decision of the responsible authority shall, if the scheme so provides, lie to the Minister instead of to a court of summary jurisdiction or a special tribunal, and accordingly the said subsection shall have effect as if, after the words "summary jurisdiction" there were inserted the words "or to the Minister". [934]

For the provisions usually inserted in planning schemes enabling the responsible authority to regulate the design or external appearance of buildings, and providing for an appeal either to a special tribunal constituted under the scheme or a Court of Summary Jurisdiction, see Model Clauses, 1939 Edn. (obtainable from H.M. Stationery Office) cl. 45, p. 69.

This section amends s. 12 of the 1932 Act (25 Statutes 485) by enabling a scheme to provide that an appeal shall lie to the Minister instead of to a court of summary jurisdiction or a special tribunal. An alternative Model Clause will doubtless be prepared by the Ministry.

45. Extension as respects war period of protection for existing buildings and uses.—

(1) Any planning scheme, whether coming into operation before or after the commencement of this Act, which makes provision for the purposes set out in paragraph (ii) (c) of subsection (2) of section nineteen of the Town and Country Planning Act, 1932 (that is to say, for securing that new buildings may be erected on the sites of existing and certain other buildings if commenced within two years after the destruction or demolition of the previous buildings or within such longer period as the responsible authority may permit) shall have effect in relation to any building destroyed or demolished (whether before or after the commencement of this Act) during the war period, as if for any reference therein to the period of two years after the destruction or demolition of the previous building there were substituted

a reference to the period ending two years after the expiration of the war period, or, in the case of a scheme which comes into operation after the expiration of the war period, to the period ending two years after the date on which the scheme comes into operation. [935]

(2) The provisions of paragraph (ii) (d) of subsection (2) of the said section nineteen (which relates to the use of buildings permitted in accordance with paragraph (ii) (c) of that subsection) and of subsections (3) and (4) of that section (which enable the responsible authority to control such buildings and uses upon payment of compensation), and any provisions included in the scheme in accordance with those provisions, shall apply in relation to any building the erection of which is permitted by virtue of this section as they apply to buildings permitted in accordance with paragraph (ii) (c) of the said subsection (2). [936]

(3) Where, at any time during the war period (whether before or after the commencement of this Act) the existing use of any building has been discontinued—

- (a) by reason of the occurrence to the building of war damage ;
- (b) by reason of possession of the building having been taken in the exercise or purported exercise of emergency powers, or by an authority by whom, at a time at which, and for a purpose of which, possession of the building could have been so taken ;
- (c) in consequence of any arrangement for the concentration of production approved, or of any order for the purpose made, by the Board of Trade in the exercise or purported exercise of such powers ;
- (d) by reason of the entry of the occupier of the building into whole-time service in the armed forces of the Crown or in the merchant navy or the mercantile marine or in a civil defence force within the meaning of the National Service Acts, 1939 to 1942, or, in the case of a woman, in any of the capacities mentioned in the First Schedule to the Reinstatement in Civil Employment Act, 1944 ; or
- (e) by reason of such other circumstances as may be prescribed,

no account shall be taken for the purposes of proviso (i) to the definition of "existing use" in section fifty-three of the Town and Country Planning Act, 1932 (which provides that no subsequent use of a building is to be deemed to be an existing use if the existing use has been discontinued for a period of eighteen months) of any time during which the resumption of the existing use of the building is or has been prevented either as mentioned in paragraphs (a) to (e) of this subsection or by reason of the refusal, by the Minister on appeal, of an interim development application for permission to resume that use. [937]

(4) In this section—

- (a) the expression "the war period" means the period beginning with the third day of September, nineteen hundred and thirty-nine and ending with the expiration of the Emergency Powers (Defence) Act, 1939 ;
- (b) the expression "emergency powers" means powers conferred by Defence Regulations, by section fifty-two of the Telegraph Act, 1863, or by section seven of the Air Navigation Act, 1920, or exercisable by virtue of the prerogative of the Crown,

and the reference in subsection (3) of this section to the refusal by the Minister on appeal of an interim development application shall be construed as including a reference to the refusal by him of an interim development application referred to him under subsection (1) of section six of the Town and Country Planning (Interim Development) Act, 1943, and to the refusal

by the Minister and the appropriate Department of an application made by the person carrying on a statutory undertaking. [938]

For s. 19 of the Town and Country Planning Act, 1932, see 25 Statutes 492. Reference should also be made to the 1939 Edition of the Model Clauses with notes, at pp. 81 *et seq.*

The National Service Acts, 1939 to 1942, are the National Service (Armed Forces) Act, 1939 (32 Statutes 1041), the National Service (Armed Forces) Act, 1940 (33 Statutes 465), the National Service Act, 1941 (34 Statutes 268), the National Service (No. 2) Act, 1941 (*ibid.* 286) and the National Service Act, 1942 (35 Statutes 231). For Sched. I to the Reinstatement in Civil Employment Act, 1944, see MASTER AND SERVANT, *ante*.

In connection with sub-s. (3), see the definition of existing building in s. 53 of the 1932 Act (25 Statutes 520), s. 13 of the 1932 Act (*ibid.*, 486) (powers to enforce and carry into effect schemes); and s. 5 of the Town and Country Planning (Interim Development) Act, 1943 (36 Statutes 245).

For the duration of the Emergency Powers (Defence) Act, 1939, see s. 11 thereof (32 Statutes 937) and the notes thereto in the Cumulative Supplement at Vol. 32 No. 3484.

For s. 52 of the Telegraph Act, 1863, see 19 Statutes 238; for s. 7 of the Air Navigation Act, see 19 Statutes 195; and for s. 6 (1) of the Town and Country Planning (Interim Development) Act, 1943, see 36 Statutes 247.

46. Power during war period to give under planning schemes consent to development with effect for a limited period.—(1) Any power conferred by a planning scheme to grant permission for any development shall include power—

- (a) where, upon application for such permission made during the continuance in force of the Emergency Powers (Defence) Act, 1939, the responsible authority are satisfied—
 - (i) that having regard to the purposes for which development is required, and to the circumstances prevailing at the time, it is desirable to grant the permission, but
 - (ii) that it is inexpedient in the interests of the scheme that the development should be permitted without limit of time, to grant the permission so as to remain in force for such period as may be specified therein;
- (b) where permission has been so granted, and the responsible authority are satisfied, upon application made as aforesaid and before the expiration of the period specified in the permission, that it is desirable to permit the development for a further period, to extend the period so specified. [939]

(2) If, after the expiration of the period for which permission has been granted therefor under this section, any building or use is maintained or continued, the provisions of the Town and Country Planning Act, 1932, and of the scheme shall apply as if the permission had not been granted and as if the building had been erected, or the use begin, at the expiration of the said period by the person then entitled to possession of the land. [940]

(3) Where, in exercise of any such power as aforesaid, the responsible authority have, at any time after the commencement of the Emergency Powers (Defence) Act, 1939, and before the commencement of this Act, purported to grant permission for any development so as to remain in force for a specified period, the provisions of the last preceding subsection shall apply as if the permission had been granted under this section. [941]

(4) Any reference in this section to the responsible authority shall, in a case where an appeal is taken to the Minister under the provisions of the scheme, be construed as a reference to the Minister. [942]

In an operative planning scheme there are provisions which define the classes of development which—

- (1) may take place on certain lands without permission being obtained from the responsible authority;
- (2) may take place on certain lands, only if permission is obtained.
- (3) is absolutely prohibited on certain lands.

This section enables a temporary permission to be granted with regard to (2), where the application is made during the continuance in force of the Emergency Powers (Defence) Act, 1939 (as to which see the notes to s. 45, *ante*).

Temporary interim development permissions are authorised by s. 3 of the Town and Country Planning (Interim Development) Act, 1943 (36 Statutes 243).

For the significance of sub-s. (2), see s. 13 of the 1932 Act (25 Statutes 486) which relates to the enforcement of schemes.

Sub-s. (3) "regularises" temporary permissions purported to have been granted and the validity of which would otherwise have been open to question.

Miscellaneous Provisions relating to Part I

47. Provisions as to borrowing for purposes of this Part.—(1) The power of the Public Works Loan Commissioners to make loans under section nine of the Public Works Loans Act, 1875, shall include power to make loans to a local planning or highway authority or a county council for the purpose of the discharge by them of any of their functions under this Part of this Act. [943]

(2) Notwithstanding anything in section three of the London County Council (Finance Consolidation) Act, 1912, the manner to which the London County Council may borrow shall include, in the case of money borrowed by them for the purpose aforesaid, borrowing from the said Commissioners in accordance with the Public Works Loans Acts, 1875 to 1882. [944]

(3) So long as the making of an issue of capital in the United Kingdom without the consent of the Treasury is prohibited by regulations made under the Emergency Powers (Defence) Acts, 1939 and 1940, it shall not be lawful to exercise the powers of borrowing conferred by virtue of this Act, without such consent. [945]

For s. 9 of the Public Works Loans Act, 1875, see 12 Statutes 258; for the Emergency Powers (Defence) Acts, 1939 and 1940, see 32 Statutes 930, 33 Statutes 541.

48. Subsidy under 1 and 2 Geo. 6, c. 16 as respects housing for persons displaced in exercise of powers of this Part.—(1) In paragraph (a) of subsection (5) of section one of the Housing (Financial Provisions) Act, 1938 (which specifies, as the subject matter to which that section applies for the purposes of the government contributions therein mentioned, housing accommodation rendered necessary as mentioned in that subsection) there shall be inserted, at the end of sub-paragraph (ii), the words "or by displacements from houses as to which the Minister is satisfied that they are unfit for human habitation and not capable of being rendered fit for human habitation at reasonable expense, being displacements occurring in the carrying out in connection with the purpose mentioned in subsection (1) of section one or in subsection (1) of section nine of the Town and Country Planning Act, 1944, of redevelopment of land which a local planning or highway authority or a Minister have or has acquired under Part I of that Act". [946]

(2) Any increase attributable to this section in the sums payable out of moneys provided by Parliament under section four of the said Act of 1938 shall be payable out of moneys so provided. [947]

For s. 1 (5) (a) of the Housing (Financial Provisions) Act, 1938, see 31 Statutes 571.

49. Works below high-water mark.—Nothing in this Act shall authorise the execution of any works whether of construction, demolition or alteration on, over or under tidal lands below high-water mark of ordinary spring tides, except with the consent of any persons whose consent would have been required if this Act had not been passed, and except in accordance with such plans and sections and subject to such restrictions and conditions as, previous to such works being commenced, have been approved by the Minister of War Transport. [948]

50. Power of entry for purposes of survey and valuation.—(1) Where a Minister or a local planning or highway authority is or are authorised to purchase any land compulsorily under this Part of this Act, or has or have

under consideration the purchase of any land as aforesaid, an officer of the Valuation Office or any person authorised in writing by the said Minister or authority may at all reasonable times, on producing, if so required, evidence of his authority in that behalf, enter on the land, for the purpose of surveying or estimating the value of the land. [949]

(2) An officer of the Valuation Office or any person authorised in writing by the Minister may at all reasonable times, on producing, if so required, evidence of his authority in that behalf, enter on land for the purpose of surveying it or estimating its value in connection with any proposals relating to the land submitted or to be submitted under section seven of this Act. [950]

(3) Notwithstanding anything in the preceding subsections, admission shall not be demanded as of right to any land which is occupied, unless twenty-four hours' notice of the intended entry has been given to the occupier. [951]

(4) If any person obstructs such an officer or other person in the exercise of any power conferred on him by this section, he shall be liable on summary conviction to a fine not exceeding twenty pounds. [952]

"Valuation office" means the valuation office of the Inland Revenue Department; see s. 65, *post*.

51. Provisions as to local inquiries.—(1) For the purposes of the execution of his powers and duties under this Act, a Minister may cause to be held such local inquiries as are directed by this Act and such other local inquiries as he may think fit. [953]

(2) Subsections (2) to (5) of section two hundred and ninety of the Local Government Act, 1933 (which relate to the giving of evidence on, and defraying the costs of, local inquiries) shall apply to a local inquiry held in pursuance of this Act as they apply to the local inquiries mentioned in subsection (1) of the said section two hundred and ninety. [954]

For s. 290 (2) to (5) of the Local Government Act, 1933, see 26 Statutes 459.

52. Provisions as to ecclesiastical property.—(1) Where the fee simple in any ecclesiastical property is in abeyance it shall be treated for the purposes of a compulsory purchase of the property authorised under this Part of this Act as being vested in the Ecclesiastical Commissioners, and any notice to treat shall be served, or be deemed to have been served, accordingly. [955]

(2) Where under this Act any notice, other than a notice to treat, is required to be served on an owner of land, and the land is ecclesiastical property, a like notice shall be served on the Ecclesiastical Commissioners. [956]

(3) In this Act the expression "ecclesiastical property" means land belonging to any ecclesiastical benefice, or being or forming part of a church subject to the jurisdiction of the bishop or any diocese or the site of such a church, or being or forming part of a burial ground subject to such jurisdiction. [957]

53. Notification of purchases of war damaged land to War Damage Commission.—(1) On the date on which notice to treat for the purposes of a purchase under this Part of this Act is served in respect of any interest in land that has sustained war damage any of which has not been made good at that date, or as soon as may be after that date, the purchasing authority shall notify the War Damage Commission that such a notice to treat has been served in respect of an interest therein:

Provided that this subsection shall not apply to a notice to treat deemed by virtue of the Sixth Schedule to this Act to have been served, but when the purchasing authority under a purchase order providing for expedited completion notify the fact that the order has become operative to the proper

officer of a council mentioned in section seventeen of this Act for the purpose of the registration of the order in the register of local land charges, or, if the purchasing authority are such a council, when the order is so registered by their proper officer, they shall notify the Commission of that action having been taken. [958]

(2) If an authority who are authorised by an order under this Part of this Act to purchase compulsorily land which has sustained war damage enter into an agreement for the purchase of an interest in the land, and at the date on which the agreement is made any of the damage has not been made good, the authority shall, on that date, or as soon as may be after that date, notify the War Damage Commission that they have entered into an agreement for the purchase of an interest therein. [959]

For the definition of "war damage," see s. 65, *post*.

54. Service of notices.—Any notice or other document required or authorised to be served or given under this Act may be served or given either—

- (a) by delivering it to the person on whom it is to be served or to whom it is to be given; or
- (b) by leaving it at the usual or last known place of abode of that person, or, in a case in which an address for service has been furnished, at that address; or
- (c) by sending it in a prepaid registered letter addressed to that person at his usual or last known place of abode, or, in a case in which an address for service has been furnished, at that address; or
- (d) in the case of an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office or sending it in a prepaid registered letter addressed to the secretary or clerk of the company or body at that office; or
- (e) in the case of the War Damage Commission, by delivering it to an officer of the Commission at any office of the Commission, or by sending it in a prepaid registered letter addressed to the Commission at any office of the Commission:

Provided that a notice or other document that is required or authorised to be served on or given to a person as having an interest in, or being an occupier of, any premises shall be deemed to be duly served on that person—

- (i) where he is a person having an interest and his name cannot be ascertained after reasonable inquiry, or where he is an occupier, if it is addressed to him by the description of "the owner" or "the occupier", as the case may be, of the premises (describing them), and delivered, left or sent as mentioned in paragraph (a), (b) or (c) of this section;
- (ii) where he is a person having an interest and his address cannot be ascertained after reasonable inquiry, or where he is an occupier, if the notice or other document (addressed to him either by name or in accordance with paragraph (i) of this proviso, and marked in such manner as may be prescribed for securing that it shall be plainly identifiable as a communication of importance) is sent in a prepaid registered letter to those premises and is not returned to the authority sending it, or is delivered to some person on those premises, or is affixed conspicuously to some object on those premises;

and where a notice or other document is required to be served on or given to all persons having interests in, or being occupiers of, premises comprised in any land, and any of that land appears to the authority required to serve

or give the notice or other document to be unoccupied, it shall be deemed to be duly served on all persons having interests in, and of all occupiers (if any) of, premises comprised in the land so appearing to the Authority (other than an owner who in accordance with the provisions of this Act in that behalf has furnished the authority with an address for service of the notice on him) if it is addressed to "the owners and any occupiers" of the land so appearing (describing it) and marked as aforesaid and is affixed conspicuously to some object on that land. [960]

This section applies not only to notices but also to other documents required or authorised to be served or given under the Act. It seems that the words "other document" would include a summons which may, therefore, be served as provided by this section (*R. v. Mead*, [1894] 2 Q. B. 124; 38 Digest 175, 179; *R. v. Brailthwaite*, [1918] 2 K. B. 319; 38 Digest 176, 180; *R. v. Hastings J.J.*, *Ex parte Mitchell* (1925), 59 J. P. Jo. 86).

As to necessity for proving prepayment of postage, see *Walthamstow Urban District Council v. Henwood*, [1897] 1 Ch. 41; 22 Digest 370, 3785.

55. Definition of "local planning authority"; and delegation to county councils and joint committees.—(1) In this Act the expression a "local planning authority" means such a council as is mentioned in subsection (1) of section two of the Town and Country Planning Act, 1932. [961]

(2) Subsection (2) of section two of the said Act (which empowers a county district council to relinquish any of its powers and duties under that Act to the county council) shall apply as if the references therein to the powers and duties of a county district council under that Act included references to their powers and duties under section one of this Act, and—

- (a) in relation to an application under the said section one made by a county council, references in that section to a local planning authority and to the area of a local planning authority shall be construed respectively as references to the county council and to the area of the local planning authority by whom the power of making the application has been relinquished to the county council;
- (b) the reference in paragraph (b) of subsection (1) of section two of this Act to an order made on the application of the local planning authority therein referred to shall include a reference to an order made on the application of a county council to whom that authority has relinquished the power of making the application; and
- (c) the references in subsection (5) of section two of this Act to the authority on whose application an order was made shall, where the order was made on the application of a county council, be construed as a reference to the local planning authority by whom the power of making the application was relinquished to the county council. [962]

(3) Section three of the said Act (which relates to the appointment and constitution of joint committees for the purpose of joint action in the preparation of a scheme) shall have effect as if the reference therein to the preparation of a scheme included a reference to making an application under section one of this Act, and—

- (a) in relation to such an application made by a joint committee, references in the said section one to a local planning authority and to the area of such an authority shall be construed respectively as references to the joint committee and to an area consisting of the areas of all local planning authorities being constituent authorities taken together,
- (b) the reference in paragraph (b) of subsection (1) of section two of this Act to an order made on the application of the local planning authority therein referred to shall include a reference to an order made on the application of a joint committee of which that authority was a constituent authority, and

(c) the references in subsection (5) of section two of this Act to the authority on whose application an order was made shall, where the order was made on the application of a joint committee, be construed, in relation to land in an area of extensive war damage, as a reference to the local planning authority in whose area the land is situated, and, in relation to land declared to be subject to compulsory purchase for providing for re-location of population or industry or for replacement of open space, as a reference to all local planning authority being constituent authorities. [963]

(4) A local planning authority, county council or joint committee making an application under section one of this Act may include in the land to which the application relates land in the neighbourhood of the area of the authority, of the area of the authority by whom the power of making the application has been relinquished to the county council, or of the area of any local planning authority being a constituent authority, as the case may be, and, as respects such an application which relates to any such neighbouring land—

(a) references in section one of this Act to the area of a local planning authority shall be construed as if that land had been in the area of the authority, of the authority by whom the said power has been relinquished as aforesaid or of a local planning authority being of one of the constituent authorities, as the case may be,

(b) the reference in paragraph (a) of subsection (1) of section two of this Act to land in the area of the local planning authority therein mentioned shall include a reference to any such neighbouring land declared to be subject to compulsory purchase for dealing with war damage by an order in force under section one of this Act and made on the application of that local planning authority, of a county council to whom the power of making such an application has been relinquished by that authority, or of a joint committee of which that authority was a constituent authority. [964]

For ss. 2 (1) and 3 of the Town and Country Planning Act, 1932, see 25 Statutes 472, 473.

A joint committee to whom constituent authorities have delegated their powers in connection with the preparation of a scheme, obtain the further power to make an application under s. 1, *ante*.

56. Provisions as to London.—(1) Where an order has been made, on an application under subsection (1) of section one of this Act, as respects land in a metropolitan borough, or authorisation of the compulsory purchase of any such land has been given under any of the provisions of this Part of this Act the Minister may, if an application in that behalf is made to him by the London County Council, by order direct that notwithstanding anything in subsection (1) of the last preceding section the council of that metropolitan borough shall, as respects all or any of the land, as may be specified in the application, be the local planning authority for the purposes of such of the provisions of this Part of this Act as may be so specified, and that the said provisions shall apply as if the application under subsection (1) of section one of this Act had been made by the council of the metropolitan borough, or the authorisation had been given to that council, as the case may be.

An order under this subsection may be varied or revoked by a subsequent order of the Minister made in accordance with an application in that behalf by the London County Council. [965]

(2) The Common Council of the City of London—

(a) may with the consent of the Minister certify as respects any land which they have acquired for the purposes of this Part of this Act and which is for the time being held by them for those purposes that the land will not, as from the giving of the certificate, be so held ;

- (b) may with the consent of the Minister certify as respects any land for the time being held by them, not being land to which subsection (2) of section fourteen of this Act applies, that the land is appropriated for the purposes of this Part of this Act ;
- (c) may with the consent of the Minister revoke a certificate in force under this subsection as respects any land for the time being held by them ;

and references in this Part of this Act to land acquired or appropriated by a local planning authority for the purposes of this Part of this Act shall be construed, in the case of the said Council, as references to land acquired by them for the said purposes as respects which no certificate under paragraph (a) of this subsection is in force, or land as respects which a certificate under paragraph (b) of this subsection is in force, or land appropriated for the said purposes in accordance with subsection (2) of section fourteen of this Act.

The consent of the Minister for the purposes of this subsection may be given either as respects a particular certificate or as respects certificates relating to land of any class, and either subject to or free from any conditions or limitations. [966]

(3) The powers of disposal conferred on the Common Council of the City of London by section nineteen of this Act shall be exercisable, as respects land to which they apply, to the exclusion of any other power of disposal which apart from this subsection would be exercisable by the said Council. [967]

PART II

Compensation in connection with Acquisition of Land for Public Purposes

57. Assessment of compensation in connection with acquisition of land for public purposes by reference to 1939 prices.—(1) Compensation for the compulsory purchase of an interest in land by a government department or a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, compensation to be estimated in connection with such a purchase for damage sustained by reason of the severing of land the subject thereof from other land held therewith or otherwise injuriously affecting such other land, and compensation under section sixty-eight of the Lands Clauses Consolidation Act, 1845, in respect of land injuriously affected by the execution of works on land acquired by such a department or authority, shall, except in the case of compensation assessed on the basis specified in rule (5) of the rules set out in section two of the said Act of 1919, be assessed subject to the rule following, that is to say—

The value of any interest in land purchased pursuant to a notice to treat served at any time within the period of five years from the commencement of this Act, the amount of any damage sustained by reason of severance or other injurious affection compensation for which is to be estimated in connection with a purchase of an interest in land pursuant to such a notice, and the amount of any damage sustained by reason of other land being injuriously affected by the execution of works which either is sustained or the amount of which falls to be ascertained at any time within that period, shall be ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine, on the assumption that the interest had at that date been subsisting as it was in fact subsisting at the time of service of the notice to treat, and that the land in which the interest subsisted, and any such other land, had been at that date in the state in which it in fact was at the time of service of the notice to treat. [968]

(2) The rule set out in the preceding subsection shall, in its application to tenancies, to land capable of being redeveloped in combination with other land, to dwelling-houses to which the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925, apply, and to agricultural holdings, have effect subject to the provisions of the Seventh Schedule to this Act. [969]

(3) Compensation for disturbance shall not in any case be assessed at any greater amount than that at which it would have fallen to be assessed if this section had not been enacted. [970]

The compensation to which this section applies is for :—

- (1) The compulsory purchase of an interest in land (Lands Clauses Consolidation Act, 1845, ss. 18, 21, 49 and 63; 2 Statutes 1120, 1121, 1128, 1133; Acquisition of Land (Assessment of Compensation) Act, 1919, ss. 1 and 2; 2 Statutes 1176, 1178);
- (2) damage sustained by reason of the severing of land the subject of compulsory purchase from other land held therewith or otherwise injuriously affecting such other land (Lands Clauses Act, 1845, ss. 49 and 63);
- (3) injurious affection to land (not the subject of compulsory purchase) by reason of the execution of works on land acquired by a government department, local or public authority (Lands Clauses Act, 1845, s. 68; 2 Statutes 1134);
- (4) disturbance. (See sub-s. (3).)

As to the meaning of "an interest in land," see *Smith, Stone and Knight, Ltd. v. Birmingham Corporation*, [1939] 4 All E. R. 116; *Oppenheimer v. Minister of Transport*, [1941] 3 All E. R. 485.

As to the meaning of "public authority," see *Metropolitan Water Board v. Berton*, [1921] 1 Ch. 299.

In valuing land (including any buildings thereon) it is customary to have regard to sales of comparable properties, if any, in the neighbourhood. The most valuable evidence on these lines, in view of the new rule, will be of sales in or about March, 1939. Sales of comparable properties at or about the time compensation is assessed, will not, however, be irrelevant as a competent valuer will be able to make the necessary adjustment by reference to prices current at March 31, 1939. Sometimes property has to be valued by reference to its cost of construction; if this method is adopted, reference will have to be made to 1939 prices.

The Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925 are the Acts of 1920, 1923, 1924 and 1925 (10 Statutes 332, 361, 365, 373, 374), but note the provisions contained in s. 65 (2) and Sched. VII, para. 3, *post*.

As to compensation for disturbance, see *Horn v. Sunderland Corporation*, [1941] 1 All E. R. 480.

58. Supplement to compensation in case of owner-occupiers.—(1) Where the person entitled to compensation assessed subject to the rule set out in subsection (1) of the last preceding section for the purchase of an interest in land consisting of or comprising a building (not being agricultural property) or consisting of or comprising agricultural property (that is to say, agricultural land or agricultural buildings as defined in section two of the Rating and Valuation (Apportionment) Act, 1928, or a farmhouse) is an owner-occupier, he shall be entitled to receive from the purchasing authority, as a supplement to that compensation, such sum, if any, not exceeding the maximum hereinafter specified, as may be reasonable having regard to the extent to which, in all the circumstances of his occupation, he is affected by the purchase of the interest. [971]

(2) The maximum for the sum which may be paid under this section in respect of an interest in land as consisting of or comprising a building shall be—

- (a) where the interest in question is the fee simple, thirty per cent. of the value of the building ascertained by reference to prices current at the thirty-first day of March, nineteen hundred and thirty-nine
- (b) where the interest in question is a tenancy, the amount by which the value of the tenancy in the building ascertained by reference to prices current at the said thirty-first day of March falls short of the value of the tenancy in the building ascertained by reference to prices thirty per cent. greater than those current at that date. [972]

(3) The maximum for the sum which may be paid under this section in

respect of an interest in land as consisting of or comprising agricultural property shall be the amount (if any) by which—

- (a) the value of the interest in the agricultural property, ascertained by reference to prices current at the said thirty-first day of March, falls short of
- (b) the value of the interest in the agricultural property ascertained by reference to prices thirty per cent. greater than those current at that date and on the assumption that that property had been at that date subject to a permanent restriction to use as agricultural property within the meaning of this section. [973]

(4) In making any valuation of a building, of a tenancy in a building or of an interest in agricultural property, which is required for fixing either of the said maxima it shall be assumed that the building or property had been at the thirty-first day of March, nineteen hundred and thirty-nine, in the state in which it in fact was at the time of service of the notice to treat, except that, in a case in which the building or property has sustained war damage any of which has not been made good at that time and in respect of which the appropriate payment under the War Damage Act, 1943, would apart from the compulsory purchase be a payment of cost of works, it shall be assumed that the building or property had been on the said thirty-first day of March in the state in which it was immediately before the occurrence of the damage. [974]

(5) The person entitled to compensation for the purchase of an interest in land consisting of or comprising a building or agricultural property shall be deemed for the purposes of this Part of this Act to be an owner-occupier if any of the following conditions are satisfied, and not otherwise, that is to say—

- (a) if he is in occupation of the building or property at the time of service of the notice to treat ;
- (b) in the case of a building or property so damaged at that time as not to be fit for occupation, if he was in occupation thereof when the damage occurred ;
- (c) in the case of a building or property of which possession has been taken without other title by virtue of any enactment, or by an authority by whom, and in circumstances in which, possession thereof could have been so taken, and has not been given up before that time, if he was in occupation thereof when possession was so taken ; or
- (d) if—
 - (i) the title under which the building or property is held at that time is such that he then has the right to enter into occupation thereof or will be in a position to obtain that right within five years from that time, and
 - (ii) it was at that time his intention, subject to its being possible for him so to do, to enter into occupation of the building or property within the said five years, or, if it is so damaged as not to be fit for occupation, to cause it to be restored for his occupation, or to enter into occupation of premises to be substituted therefor, within the said five years. [975]

(6) For the purposes of the last preceding subsection—

- (a) references to the person entitled to the compensation shall, where that person holds as trustee or otherwise for the benefit of another or subject to the directions of another, be construed subject to such adaptations as may be prescribed by regulations made by the Lord Chancellor ;

- (b) references to occupation of a building or property include references to occupation of a part thereof, so however that a person shall not be treated under this paragraph as in occupation of a building or property by virtue of his occupying a part thereof if he occupies it wholly or mainly in connection with the management, supervision or control of the building or property as a whole ;
- (c) a person shall be treated as in occupation of a building or property if it is in the occupation of a person in his employment for the purposes of that employment, so however that a person shall not be treated under this paragraph as in occupation of a building or property by virtue of any occupation thereof by a person employed by him as caretaker of that building or property ;
- (d) no regard shall be had to any impediment to a right to enter into occupation arising from the subsistence of a tenancy which, by virtue of the Validation of War-Time Leases Act, 1944, or otherwise, is for a term having more than five years to run at the time of service of the notice to treat but is subject to a right on the part of the landlord to determine the tenancy by notice after the end of the war if it ends before the expiration of that term, or arising from the operation of the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939 (or of any enactment amending or replacing any enactment in those Acts), or arising from the subsistence by virtue of any enactment of a right to possession of land without other title thereto ;
- (e) no regard shall be had to occupation or intended occupation of a building or property entered into, or intended to be entered into, with a view to rendering a sum payable under this section in a case in which it would not otherwise have been payable.

[976]

(7) In this section the expression " farmhouse " means a house used as the dwelling-house of a person who is primarily engaged in carrying out or directing agricultural operations on land in the neighbourhood of the house. [977]

For s. 2 (2) of the Rating and Valuation (Apportionment) Act, 1928, see 14 Statutes 714.

Sub-s. (2) makes it quite clear that the supplementary compensation is not limited to an owner-occupier who is the owner in fee simple. As to the position which will arise where a parent company owns the premises occupied by a subsidiary company, or vice versa, see *Smith, Stone and Knight, Ltd. v. Birmingham Corporation*, [1939] 4 All E. R. 116 ; Digest Supp.

For the War Damage Act, 1943, see 36 Statutes 334.

Sub-s. (6) (a) may give rise to difficult questions of fact. As a result of the first part of the paragraph, a person who owns a building or property and who occupies part of it is to be treated as an owner-occupier of the whole ; but there is a proviso to this : a person who owns a building or property and occupies part of it, is not to be treated as an owner-occupier if he occupies the part wholly or mainly in connection with the management, supervision or control of the building or property. This proviso would clearly exclude from the category of owner-occupiers a person who owns a block of offices or flats and has one or two rooms in the block which he uses for the purpose of managing the lettings and supervising the building. If, however, a person carries on other business in addition then it will become a question of whether he is occupying the rooms *mainly* in connection with the management, supervision or control of the building.

The latter part of sub-s. (6) (c) relating to occupation by a caretaker may give rise to difficulties. In any difficult case it should be borne in mind that this paragraph links up with sub-s. (5) (a), which enacts that a person is to be deemed to be an owner-occupier if (*inter alia*) he is in occupation of the building or property at the time of the service of the notice to treat. Secondly, a person who merely closes his building or property, while he goes on a holiday, would still remain the owner-occupier, and if he left it in charge of a caretaker while he was away, he would, it is submitted, still remain the owner-occupier, because of his own occupation, not by reason of his caretaker's occupation. But where the occupation is solely by a caretaker, it would appear to come within this paragraph.

For the Rent and Mortgage Interest Restrictions Acts, 1920 to 1939, see 10 Statutes 332, 361, 365, 374 ; 26 *ibid.* 266 ; 28 *ibid.* 119 ; 31 *ibid.* 387 ; 32 *ibid.* 971.

59. Supplement to compensation in case of improvements.—Where compensation assessed subject to the rule set out in subsection (1) of section

fifty-seven of this Act is for the purchase of an interest in land which, after the thirty-first day of March, nineteen hundred and thirty-nine and before the time of service of the notice to treat, has been improved by the erection thereon of a building or by improvements made to a building or to agricultural land comprised therein, the person entitled to the compensation shall be entitled to receive from the purchasing authority, as a supplement to that compensation, such sum, if any, by way of addition to the value, ascertained by reference to prices current at the said thirty-first day of March, of the purchased interest in the land so far as attributable to the improvements, as may be reasonable having regard to all the circumstances, including in particular the cost of the improvements, any provision which may have been made for the payment of any of the cost thereof out of public moneys, and any increased returns or increased prices in respect of, or of products of, work done on the improved land in so far as it appears that the increase was intended to make provisions for recovery of capital applied in making the improvements apart from provision for depreciation. [978]

60. Supplemental provisions relating to the two preceding sections.—

(1) On a claim being made for payment of a sum under either of the two last preceding sections as a supplement to any compensation the purchasing authority may settle the claim in agreement with the person entitled to the compensation, and in default of agreement the claim shall be referred to and determined by an arbitrator to be appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919 :

Provided that—

(a) a county court shall have jurisdiction to hear and determine any question arising on such a claim whether the claimant is a person who is to be deemed for the purposes of this Part of this Act to be an owner-occupier ; and

(b) in lieu of the provisions of the said Act of 1919 as to the statement of special cases, the arbitrator may at any stage of the proceedings before him, and shall, if so directed by the judge of a county court, state in the form of a special case for the opinion of that court any question of law arising in the course of the proceedings, and may state his award as to the whole or part thereof in the form of a special case for the opinion of a county court.

[979]

(2) The Treasury may make regulations prescribing the manner in which, and matters by reference to which, any valuation required for the purposes of the determination of a claim for payment of a sum under either of the two last preceding sections is to be made. [980]

(3) Provisions may be made by an order made by the Treasury and approved by a resolution of each House of Parliament for substituting, in view of any circumstances arising since the passing of this Act, for any reference in section fifty-eight of this Act to thirty per cent. a reference to such higher or lower percentage as may be specified in the order, either generally or as respects any particular provision of that section.

An order or orders may be made under this subsection as respects such period or respective periods as appear to the Treasury to be appropriate, and any such order shall have effect (if approved as aforesaid) in relation to interests in respect of which notices to treat are served during the period as respects which the order is made. [981]

(4) Where the person entitled to any compensation would apart from this provision be entitled to receive a sum as a supplement to that compensation under both of the two last preceding sections, he shall be entitled to receive whichever of those sums is the greater, to the exclusion of the other.

[982]

(5) A sum payable under either of the two last preceding sections as a supplement to any compensation shall be held and disposed of in like manner as if it had formed part of the compensation, and, where the compensation carries interest, shall carry interest at the rate and from the date at and from which interest on the compensation is payable. [983]

The provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, as to the statement of special cases are contained in s. 6 thereof (2 Statutes 1180).

61. Ascertainment of compensation for purchase of land valued under the War Damage Act, 1943.—(1) The provisions of the Eighth Schedule to this Act shall have effect as to the ascertainment of the compensation for the compulsory purchase of an interest in the whole of the land in a hereditament within the meaning of the War Damage Act, 1943, the value of which is required by that Act to be ascertained by reference to its state after war damage. [984]

(2) In this section, and in the Eighth Schedule to this Act, references to the compensation for the compulsory purchase of an interest shall be construed as references to the compensation payable apart from any supplement under section fifty-eight or fifty-nine of this Act. [985]

For the War Damage Act, 1943, see 36 Statutes 334.

62. Power to prescribe rate of interest payable where entry made before payment of compensation.—(1) The rate of interest for any period after the commencement of this Act on compensation which fell or falls, in default of agreement, to be ascertained in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (whether as originally enacted or as amended by this Act), in respect of land compulsorily purchased on which entry has been made before the payment of the compensation shall, in lieu of being the rate of five per cent. specified in section eighty-five of the Lands Clauses Consolidation Act, 1845, be four per cent. per annum or such other rate as may be prescribed by regulations made by the Treasury under this section. [986]

(2) The Treasury may from time to time make regulations prescribing the rate at which such interest as aforesaid for the period after the coming into force of the regulations, and before the coming into force of any subsequent regulations made under this section, is to be payable. [987]

For the Acquisition of Land (Assessment of Compensation) Act, 1919, see 2 Statutes 1176. For s. 85 of the Lands Clauses Consolidation Act, 1845, see *ibid.* 1142.

PART III

General

63. Regulations.—(1) In this Act, except where the context otherwise requires, the expression "prescribed" means prescribed by regulations made by the Minister. [988]

(2) Any regulations made under this Act shall be laid before Parliament as soon as may be after they are made, and if either House of Parliament within the period of forty days beginning with the day on which the regulations are laid before that House resolves that the regulations be annulled the regulations shall thereupon become void, without prejudice, however, to the validity of anything previously done thereunder or to the making of new regulations.

In reckoning any such period of forty days as aforesaid no account shall be taken of any time during which Parliament is dissolved or prorogued, or during which both Houses are adjourned for more than four days. [989]

(3) Notwithstanding anything in subsection (4) of section one of the Rules Publication Act, 1893, regulations made under this Act shall be deemed not to be, or to contain, statutory rules to which that section applies. [990]

The Minister is the Minister of Town and Country Planning (s. 1, *ante*).
For s. 1 (4) of the Rules Publication Act, 1893, see 18 Statutes 1016.

64. Powers of official arbitrator on references to him.—An official arbitrator appointed in accordance with the provisions of the Acquisition of Land (Assessment of Compensation) Act, 1919, to whose determination any matter is referred under this Act shall have the like powers with respect to procedure, costs and the statement of special cases as he has under that Act, except in so far as is otherwise provided by this Act. [991]

As to the appointment of official arbitrators, see s. 1 of the Acquisition of Land (Assessment of Compensation) Act, 1919 (2 Statutes 1176).

65. Interpretation.—(1) In this Act, except where the context otherwise requires, the following expressions have the meanings hereby assigned to them respectively, that is to say—

- “appropriate Minister”, in relation to a statutory undertaking, has the meaning assigned to it by section thirteen of this Act ;
- “clearing” means preparing land to the prescribed extent for development, including the construction of any prescribed works in the course of so preparing it ;
- “development” includes re-development ;
- “ecclesiastical property” has the meaning assigned to it by section fifty-two of this Act ;
- “first local advertisement” means, in relation to the publication of a notice as respects any land, the first publication of the notice in a newspaper circulating in the locality where the land is situated, and includes, in relation to a notice so published once only, the publication thereof ;
- “Gazette and local advertisement” means, in relation to an application, order or certificate to any land, publication in the London Gazette and, in each of two successive weeks, in one or more newspapers circulating in the locality in which the land is situated ;
- “interim development application” and “interim development authority” have the same meanings as in the Town and Country Planning (Interim Development) Act, 1943 ;
- “loan charges” means the sums required for the payment of interest on borrowed moneys and for the repayment thereof either by instalments or by means of a sinking fund ;
- “local highway authority” means a highway authority other than the Minister of War Transport, and includes the London County Council ;
- “local planning authority” has the meaning assigned to it by section fifty-five of this Act ;
- “owner”, in relation to any building or land, means a person, other than a mortgagee not in possession, who is for the time being entitled to dispose of the fee simple of the building or land, whether in possession or in reversion, and includes also a person holding or entitled to the rents and profits of the building or land under a lease or agreement, the unexpired term whereof exceeds three years ;
- “planning scheme” means a scheme under the Town and Country Planning Act, 1932, and includes a town planning scheme under the Town Planning Act, 1925, or any enactment repealed by that Act ;
- “purchasing authority” includes a Minister purchasing under this Act ;
- “purchase order providing for expedited completion” has the meaning assigned to it by subsection (3) of section eighteen of this Act ;

“statutory undertaking” has the meaning assigned to it by section thirteen of this Act;

“Valuation Office” means the Valuation Office of the Inland Revenue Department;

“war damage” has the meaning assigned to it by the War Damage Act, 1943. [992]

(2) References in this Act to any other enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by this Act or by or under any other enactment. [993]

(3) Words in this Act importing a reference to service of a notice to treat shall be construed as including a reference to the constructive service of such a notice which, by virtue of the Sixth Schedule to this Act or of any other enactment, is to be deemed to be served. [994]

“Interim development application” and “interim development authority” are defined by s. 14 (1) of the Town and Country Planning (Interim Development) Act, 1943 (36 Statutes 251).

“War Damage” is defined by s. 2 of the War Damage Act, 1943 (36 Statutes 338).

66. Short title and extent.—(1) This Act may be cited as the Town and Country Planning Act, 1944. [995]

(2) This Act shall not extend to Scotland or to Northern Ireland. [996]

SCHEDULES

Sections 1, 23, 26, 27

FIRST SCHEDULE

PROCEDURE FOR DEALING WITH OBJECTIONS

1.—(1) The following provisions of this Schedule shall have effect where an objection is duly made to—

- (a) an application for an order under section one of this Act;
- (b) a proposal to make an order under section twenty-three thereof;
- (c) the making of an order under section twenty-six or twenty-seven thereof;
- (d) an order authorising a compulsory purchase submitted by a local planning or highway authority, or prepared in draft by a Minister, in accordance with the provisions of the Second Schedule to this Act;

and is not withdrawn.

(2) An objection shall not be deemed for the purposes of any of the said enactments or of this Schedule to be duly made unless—

- (a) it is made within the time and in the manner specified in the notice required by the relevant enactment referred to in the preceding sub-paragraph, and
- (b) the objection comprises, or there is submitted therewith, a statement in writing of the grounds thereof.

(3) In this Schedule, the expression “the Minister” means the Minister or Ministers having jurisdiction to make or confirm the order in question.

2. Unless the Minister decides apart from the objection not to make or confirm order, or decides to make a modification agreed to by the person making the objection as meeting the objection, the Minister shall, before deciding whether to make, or confirm the order, or what modification if any ought to be made, consider the grounds of the objection as set out in the statement, and may, if he thinks fit, require the person making the objections to submit within a specified period a further statement in writing as to any of the matters to which the objection relates.

3. In so far as the Minister is satisfied, after considering the grounds of the objection as set out in the original statement and any such further statement—

- (a) that the objection relates to a matter which can be dealt with by an arbitrator by whom compensation is to be assessed, or
- (b) in the case of an objection to an order authorising a compulsory purchase of land as to which an order under section one of this Act is in force, that the objection is made on the ground that the purchase is unnecessary or inexpedient,

The Minister may treat the objection as irrelevant for the purpose of his deciding as aforesaid.

4. If after considering the grounds of the objection as set out in the original statement and any such further statement, the Minister is satisfied that he is sufficiently informed for the purpose of his deciding as aforesaid, as to the matters to which the objection relates, or if where a further statement has been required it is not submitted within the specified period, the Minister may decide as aforesaid without further investigation as to those matters.

5. Subject as mentioned in the two last preceding paragraphs, the Minister shall, before deciding as aforesaid, afford to the person making the objection an opportunity of appearing before and being heard by a person appointed for the purpose by the Minister, and if he avails himself thereof the Minister shall afford an opportunity of appearing and being heard on the same occasion to the authority or other person (if any) making the application or representation or submitting the order in question and to any other persons to whom it appears to the Minister to be expedient to afford it.

6. Notwithstanding anything in paragraphs 2 to 5 of this Schedule, if it appears to the Minister that the matters to which the objection relates are such as to require investigation by public local inquiry before he decides as aforesaid, he shall cause such an inquiry to be held, and where he determines to cause such an inquiry to be held any of the requirements of those paragraphs to which effect has not been given at the time when he so determines shall be dispensed with. [997]

The statement of grounds of objection under para. 1 (2) (b) should comprise all the matters on which the objector relies : cf. *Estate and Trust Agencies* (1927), *Ltd. v. Singapore Improvement Trust*, [1937] A. C. 898 ; [1937] 3 All E. R. 324 ; Digest Supp. The grounds of objection will, as a rule, fall under two heads :—

(1) Legal points ;

(2) Grounds going to the merits of the case. With regard to objections relating to the merits of the case, the maxim that "private interests must yield to the public good" must always be borne in mind. An objection is only likely to succeed if it can be shown that it is in the public interest that it should succeed. There may, however, be cases in which an objection will succeed on the ground that the proposed order, if made or confirmed, would cause the objector to suffer disproportionate hardship.

In the circumstances mentioned in para. 4, the Minister may decide "as aforesaid" without affording the objector an opportunity of appearing before and being heard by a person appointed for the purpose by him (para. 5) or without holding a local inquiry (para. 6). Although the Minister may decide the matter affording the objector an oral hearing in so deciding he is still required to act "judiciously." This means that :—

(1) He must act in good faith and fairly.

(2) He must give the objector and any other party to the controversy a fair opportunity for correcting or contradicting any relevant statement prejudicial to the view : see *Board of Education v. Rice*, [1911] A. C. 179 ; *R. v. Housing Appeal Tribunal*, [1920] 3 K. B. 334 ; 38 Digest 97, 709 ; *General Medical Council v. Spackman*, [1943] A. C. 627 ; [1943] 2 All E. R. 337.

(3) He ought not to view property in the company of one party without giving the other party an opportunity of being present : see *Errington v. Minister of Health*, [1935] 1 K. B. 249 ; Digest Supp.

Whether the hearing mentioned in para. 5 will take the form of a local inquiry or not (see para. 6) will probably depend on the circumstances. A person appointed by the Minister or an inspector holding a local inquiry on behalf of the Minister is not a court of law bound by the rules of procedure relating to such courts. As no procedure is prescribed he can determine his own procedure (*Board of Education v. Rice*, *supra*). The Minister may decide any question of law as well as of fact arising in the course of the proceedings (*Board of Education v. Rice*). The Minister need not give reasons for his decision (*Broadbent v. Rotherham Corporation* (No. 2) (1918), 87 L. J. (Ch.) 308) and he need not disclose the report of the person who hears the parties, or of an inspector acting on his behalf (*Local Government Board v. Aridge*, [1915] A. C. 120 ; 38 Digest 97, 708 ; *Denby (William) & Sons, Ltd. v. Minister of Health*, [1936] 1 K. B. 337 ; Digest Supp.).

The Minister is not required to act judicially until an objection has been duly made to him ; and it will not be possible to impeach his decision on the ground that before the objection had been made he gave advice or took part in consultations with the other party to the controversy (*Offer v. Minister of Health*, [1936] 1 K. B. 40 ; Digest Supp. ; *Horn v. Minister of Health*, [1937] 1 K. B. 164, C. A. ; Digest Supp.). Where the Minister has the right under one Act of giving advice to a local authority and under another Act the duty of confirming orders made by local authorities, his duty is to carry out both these powers, and they cannot be said to be contrary to one another, inasmuch as the legislature has imposed upon him the duty of doing both (*ibid.*, *per* SLESSER, L.J.). Where public departments are given quasi-judicial duties, the obligation to carry out their quasi-judicial duties in strict accordance with natural justice must always be considered in the light of their administrative duties (*ibid.*, *per* SCOTT, L.J.).

PROCEDURE FOR AUTHORISING COMPULSORY PURCHASE

PART I

Purchases by local planning or highway authorities

1.—(1) An order made by a local planning or highway authority authorising a compulsory purchase under this Act shall designate the land to which the order relates by reference to a map or maps annexed thereto either with or without descriptive matter (which, in case of any discrepancy with the map or maps, shall prevail except in so far as may be otherwise provided by the order).

(2) Subject as aforesaid the form of such an order shall be such as may be prescribed.

2.—(1) After submitting such an order to the Minister, the authority shall publish a notice in the prescribed form describing the land, stating that an order authorising the compulsory purchase thereof has been submitted to the Minister, naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at all reasonable hours, and specifying the time (not being less than twenty-eight days from the first local advertisement) within which, and the manner in which, objections to the order may be made.

(2) In the case of any such order as to which the Minister so directs, the authority shall serve on every owner of any of the land to which the order relates a notice to the like effect as that of the notice required by the preceding sub-paragraph to be published :

Provided that this sub-paragraph shall not have effect in the case of an order which relates only to land as to which an order under section one of this Act is in force.

(3) The notice required as aforesaid to be published shall be published—

(a) in the case of an order which relates only to land as to which an order under section one of this Act is in force, and in any other case in which service on owners is not effected, by Gazette and local advertisement ; or

(b) in a case in which service as aforesaid is effected, in one or more newspapers circulating in the locality in which the land to which the order relates is situated.

(4) Publication as aforesaid, and service as aforesaid if any, shall be effected, in the case of an order which relates only to land as to which an order under section one of this Act is in force, as soon as may be after the order has been submitted, and, in any other case, as soon as may be after the order has been submitted and any direction of the Minister as to service on owners has been given or he has notified the authority that he does not propose to give any such direction.

3. The provisions of the First Schedule to this Act shall have effect in relation to the order if any objection thereto is duly made.

4. Subject to the provisions of the said Schedule in a case in which those provisions have effect, the Minister may confirm the order as submitted, either without modification or with any modification except (unless all persons interested consent) a modification extending the order to any land not designated by the order as submitted.

5. As soon as may be after the order has been confirmed the authority shall publish in one or more newspapers circulating in the locality in which the land thereby designated is situated a notice in the prescribed form describing the land, stating that the order has been confirmed and naming a place where a copy of the order and of the map or maps and any descriptive matter annexed thereto may be seen at all reasonable hours, and shall serve a like notice on—

(a) an owner or occupier of any land thereby designated who, at any time after the publication of the notice of the order as submitted, has sent to the authority a request in writing to serve him with the notice required by this paragraph specifying an address for service and giving the prescribed particulars of his interest ;

(b) any person who has duly made an objection to the order and at the time of making it or thereafter has sent to the authority such a request as aforesaid ; and

- (c) such other persons, if any, as the Minister may specify, whether individually or as members of a class of persons.

6. The Minister may by regulations make provision for enabling proceedings required for the purposes of paragraphs 1 to 3 of this Schedule to be taken, in the case of an order authorising a compulsory purchase of land as to which an application for an order under section one of this Act is pending, contemporaneously with the proceedings on that application, so far as may be practicable.

PART II

Purchases by Ministers

7.—(1) An order made by a Minister authorising a compulsory purchase under this Act, other than an order giving an authorisation in accordance with section thirteen of this Act, shall designate the land to which it relates as mentioned in subparagraph (1) of paragraph 1 of this Schedule.

(2) Subject as aforesaid the form of such an order shall be such as the Minister making the order may determine.

8. Where a Minister proposes to make such an order he shall prepare a draft thereof and shall as soon as may be thereafter publish in the manner mentioned in paragraph 2 of this Schedule and, in any case in which he thinks it requisite so to do, serve on every owner of any of the land to which the draft relates, a notice, in such form as he may determine, similar, with requisite adaptations, to the notice mentioned in that paragraph.

9. Paragraphs 3, 4 and 5 of this Schedule shall have effect in relation to such an order, with the substitution, for references to the Minister of Town and Country Planning and to the authority, of references to the Minister having jurisdiction to make the order, and, for references to an order as submitted and to the confirmation of an order, or references respectively to an order as prepared in draft and to the confirmation of an order, of references respectively to an order as prepared in draft and to the making of an order.

10. In the case of an order under section four of this Act relating to land as to which an application for an order under section one of this Act is pending, such of the proceedings required for the purposes of the preceding provisions of this Part of this Schedule as it appears to the Ministers having jurisdiction to make the order under section four of this Act to be practicable to take contemporaneously with the proceedings on that application may be so taken. [1998]

Section 13

THIRD SCHEDULE

PROCEDURE FOR AUTHORISING COMPULSORY PURCHASE OF STATUTORY UNDERTAKERS' LAND

PART I

Purchases by local planning or highway authority

1. An application by a local planning or highway authority for the purposes of paragraph (a) of subsection (4) of section thirteen of this Act shall be in such form as may be prescribed, and shall describe by reference to a map the land to which the application relates.

2. As soon as may be after submitting the application to the Minister and the appropriate Minister the authority shall serve on every owner, lessee and occupier of any land to which the application relates a notice in the prescribed form describing the land, stating that an application under the said subsection (4) has been submitted in relation to the land and is about to be considered by the Minister and the appropriate Minister, naming a place where a copy of the application and of the map referred to therein may be seen at all reasonable hours, and specifying the time (not being less than twenty-eight days from the service of the notice) within which, and the manner in which, objections to the application may be made.

3.—(1) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the Minister and the appropriate Minister may, if they think fit, make an order in accordance with the application, either without modification or with any modification except (unless all persons interested consent) a modification extending the order to any land to which the application did not relate.

(2) If any objection is duly made by any of the persons on whom notices are required to be served and is not withdrawn, the Minister and the appropriate Minister shall before making an order on the application consider the objection and shall, if either the person by whom the objection was made or the authority so desire, afford that person and the authority an opportunity of appearing before and being heard by a person appointed by the Minister and the appropriate Minister for the purpose, and may then, if they think fit make an order as aforesaid.

(3) An objection shall not be deemed for the purposes of the said subsection (4) or of this Schedule to be duly made unless—

(a) it is made within the time and in the manner specified in the notice in that behalf, and

(b) the objection comprises, or there is submitted therewith, a statement in writing of the grounds thereof.

4. An order made on such an application shall be in such form as the Minister and the appropriate Minister may determine, and shall describe by reference to a map the land to which the order relates.

5.—(1) As soon as may be after an order has been made on such an application the authority shall serve on every owner, lessee and occupier of any land to which the order relates a notice in the prescribed form stating that the order has been made and naming a place where a copy of the order and of the map referred to therein may be seen at all reasonable hours.

(2) In relation to an order made on such an application references in this Act to notices of the confirmation of an order required to be published shall be construed as references to the notices required by the preceding sub-paragraph to be served, and references to the date of first publication of notices of the confirmation of an order shall be construed as references to the date on which the service of notices required by the preceding sub-paragraph is completed.

PART II

Purchases by Ministers

6. An order made by a Minister and the appropriate Minister for the purposes of paragraph (b) of subsection (4) of section thirteen of this Act shall be in such form as they may determine, and shall describe by reference to a map the land to which the order relates.

7. Where a Minister and the appropriate Minister propose to make such an order they shall prepare a draft thereof, and shall as soon as may be thereafter serve on every owner, lessee and occupier of any land to which the draft relates a notice in such form as they may determine describing the land, stating that the making of the order is proposed, naming a place where a copy of the draft and of the map referred to therein may be seen at all reasonable hours, and specifying the time (not being less than twenty-eight days from service of the notice) within which, and the manner in which, objections to the proposal may be made.

8. Paragraphs 3 and 5 of this Schedule shall have effect in relation to such an order, with the substitution for references to the Minister of Town and Country Planning of references to the Minister having, in conjunction with the appropriate Minister, jurisdiction to make the order, and, for references to an application and to the making of an order thereon, of references to an order as prepared in draft and to the making of an order, with the omission of the references in sub-paragraph (2) of paragraph 3 to the applicant authority, and with the substitution for the references in paragraph 5 to that authority of a reference to the Minister having jurisdiction as aforesaid. [999]

Sections 13, 25, 35, 36

FOURTH SCHEDULE

ASSESSMENT OF COMPENSATION TO STATUTORY UNDERTAKERS

PART I

Amount of Compensation

1. The compensation to be paid—

- (a) in respect of a compulsory purchase authorised under subsection (4) of section thirteen of this Act, as respects the interest of the person by whom the statutory undertaking in question is carried on,
- (b) in respect of the extinguishment of any right, or the imposition of any requirement, under section twenty-five of this Act,
- (c) in respect of the refusal of permission to develop land, or the granting of such permission subject to conditions, by the Minister and the appropriate Minister under section thirty-five of this Act, or in respect of the revocation or modification of any such permission granted as mentioned in subsection (1) of section thirty-six of this Act,

shall in default of agreement be assessed by the arbitration of the tribunal constituted in accordance with the provisions of Part II of this Schedule, and the amount of the compensation shall be an amount calculated in accordance with the provisions of the next following paragraph :

Provided that, as respects compensation in respect of a compulsory purchase, if, before the expiration of two months from the date on which notice to treat is served in respect of the interest of the person by whom the statutory undertaking is carried on, that person gives notice in writing to the purchasing authority that he elects that as respects all or any of the land comprised in the purchase the compensation shall be ascertained in accordance with the enactments, other than rule (5) of the rules set out in section two of the Acquisition of Land (Assessment of Compensation) Act, 1919, which would be applicable apart from the provisions of this Schedule, the compensation shall be so ascertained.

2.—(1) The amount of the said compensation shall, subject to the provisions of this paragraph, be the aggregate of the following amounts, that is to say,—

- (a) the amount of any expenditure reasonably incurred in acquiring land, providing apparatus, erecting buildings or doing work for the purpose of any adjustment of the carrying on of the undertaking rendered necessary by the proceeding giving rise to compensation ; and
- (b) Where any such adjustment is made, the estimated amount of any decrease in net receipts from the carrying on of the undertaking pending the adjustment, in so far as the decrease is directly attributable to the said proceedings, together with such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking in the period after the adjustment has been completed, in so as the decrease is directly attributable to the adjustment ; or
- (c) where no such adjustment is made, such amount as appears reasonable compensation for any estimated decrease in net receipts from the carrying on of the undertaking which is directly attributable to the proceeding giving rise to compensation ; and
- (d) in the case of compensation in respect of the imposition of a requirement under section twenty-five of this Act to remove any apparatus, any expense reasonably incurred by the person carrying on the undertaking in complying with the requirement, reduced by the value after removal of the apparatus removed.

(2) The amount of any compensation assessed in accordance with the preceding sub-paragraph shall be reduced by such amount (if any) as appears to the tribunal to be appropriate to offset—

- (a) the estimated value of any property (whether movable or immovable) belonging to the person carrying on the statutory undertaking in question and used for the carrying on thereof which as the result of any such adjustment as is mentioned in the preceding sub-paragraph ceases to be so used, in so far as the value of the property has not been taken into account under head (d) of the preceding sub-paragraph ; and

(b) the estimated amount of any increase in net receipts from the carrying on of the undertaking in the period after any such adjustment has been completed, in so far as that amount has not been taken into account under head (b) of the preceding sub-paragraph, as is directly attributable to the adjustment and by any further amount which appears to the tribunal to be appropriate having regard to any increase in the capital value of immoveable property belonging to the person carrying on the statutory undertaking in question which is directly attributable to any such adjustment as aforesaid, allowance being made for any reduction made under head (b) of this sub-paragraph.

(3) References in this paragraph to a decrease in net receipts shall be construed as references to the amount by which a balance of receipts over expenditure is decreased, or of expenditure over receipts is increased, or, where a balance of receipts over expenditure is converted into a balance of expenditure over receipts, as references to the aggregate of the two balances ; and references to an increase in net receipts shall be construed accordingly.

(4) In this paragraph the expression "proceeding giving rise to compensation" means the particular action (that is to say, purchase, extinguishment of a right, imposition of a requirement, refusal of permission, grant of permission subject to conditions, or revocation or modification of permission) in respect of which compensation falls to be assessed, as distinct from any development or project in connection with which the action in question may have been taken.

PART II

Tribunal for assessment of compensation to statutory undertakers

3.—(1) The tribunal for the assessment of compensation referred to in Part I of this Schedule shall consist of four persons, namely—

- (a) a barrister or solicitor of not less than seven years' standing, appointed by the Lord Chancellor to act as chairman ;
- (b) two persons appointed by the Minister as persons having special knowledge and experience of the valuation of land and of civil engineering respectively ; and
- (c) for each claim coming before the tribunal, a person selected by the appropriate Minister, as a person having special knowledge and experience of statutory undertakings of the kind carried on by the claimant, from the members of a panel appointed by appropriate Ministers of persons appearing to them to have such knowledge and experience of statutory undertakings.

(2) The Treasury may pay out of moneys provided by Parliament to the members of the tribunal such remuneration (whether by way of salaries or by way of fees), and such allowances as the Treasury may determine.

(3) The provisions of sections three, five and six of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall apply in relation to the tribunal and proceedings before the tribunal as they apply in relation to an official arbitrator and proceedings before an official arbitrator, with the substitution for references in the said section five to the acquiring authority of references to the authority or Minister from whom compensation is claimed and with the modification that rules regulating the procedure before the tribunal shall be made by the Lord Chancellor. [1000]

Section 18

FIFTH SCHEDULE

MODIFICATIONS OF LANDS CLAUSES ACTS AND ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919, FOR PURPOSES OF PART I

PART I

The Land Clauses Acts

1.—(1) In construing the Lands Clauses Acts as incorporated with Part I of this Act—

- (a) Part I of this Act, or, in relation to a compulsory purchase, the said Part I (together, in the case of a purchase authorised by virtue of such an order as

is mentioned in section four of this Act, with the relevant enactment mentioned in that section), and the order by which the purchase is authorised, shall be deemed to be the special Act ;

- (b) in relation to a compulsory purchase, references to the promoters of the undertaking shall be construed as references to the purchasing authority ;
- (c) references to the execution of the works shall be construed as including references to any erection, construction or carrying out of buildings or works authorised by Part I of this Act, and in relation to any such erection, construction or carrying out, the reference in section sixty-eight of the Lands Clauses Consolidation Act, 1845, to the promoters of the undertaking shall be construed as references to the person by whom the buildings or works in question are erected, constructed or carried out ; and
- (d) references to the execution of the works shall be construed as including also references to any erection, construction or carrying out of buildings or works on behalf of a Minister, on land purchased by him under Part I of this Act, for the purposes for which the land was purchased.

(2) For the purposes of section one hundred and twenty-three of the Lands Clauses Consolidation Act, 1845 (which provides that powers of compulsory purchase shall not be exercised after the expiration of the prescribed period) the prescribed period shall be, in relation to any purchase, three years from the coming into operation of the order authorising it.

2. The following sections of the Lands Clauses Consolidation Act, 1845, shall be excepted from incorporation with Part I of this Act, that is to say—

- (a) sections one hundred and twenty-seven to one hundred and thirty-two (which relate to sale of superfluous land) ;
- (b) section one hundred and thirty-three (which relates to promoters making good deficiencies in land tax and rates) ; and
- (c) sections one hundred and fifty and one hundred and fifty-one (which relate to access to the special Act).

3. The purchasing authority shall, without prejudice to any power in that behalf exercisable by them apart from this paragraph, be entitled, notwithstanding anything in section eighteen of the Lands Clauses Consolidation Act, 1845, or in any other provision of the Lands Clauses Acts, to purchase one or some of two or more interests subsisting therein without purchasing the other or others of them.

4.—(1) When the purchasing authority have served notice to treat on every owner of any land, they may at any time thereafter serve a notice on every occupier of any of the land, and on every other person who having been served with a notice to treat has requested the authority in writing to serve with any notice under this sub-paragraph and has furnished them with an address for service thereof, describing the land to which the notice relates and stating their intention to enter on and take possession thereof at the expiration of such period (not being less than fourteen days) from the date on which the notice is served as may be therein specified.

(2) At the expiration of the period specified in such a notice (or, where two or more such notices are required, and the periods specified in the several notices do not expire at the same time, if the last of those periods to expire), or at any time thereafter, the purchasing authority may enter on and take possession of the land without previous consent or compliance with sections eight-four to ninety of the Lands Clauses Consolidation Act, 1845, but subject to the payment of the like compensation agreed or awarded, as they would have been required to pay if those provisions had been complied with.

(3) This paragraph shall not have effect in relation to a purchase authorised by a purchase order providing for expedited completion being a purchase of land as respects which the provisions of the Sixth Schedule to this Act apply to the order.

5.—(1) The following provisions shall have effect in substitution for the provisions of section ninety-two of the Lands Clauses Consolidation Act, 1845, that is to say, no person shall be required to sell a part only of any house, building or manufactory, or of a park or garden belonging to a house, if he is willing and able to sell the whole of the house, building, manufactory, park or garden, unless the arbitrator determines that, in the case of a house, building, or manufactory, such part as is proposed to be taken can be taken without material detriment to the house, building or manufactory, or, in the case of a park or garden, that such part as aforesaid can be taken without seriously affecting the amenity or convenience of the house, and,

if he so determines, he shall award compensation in respect of any loss due to the severance of the part so proposed to be taken, in addition to the value of that part, and thereupon the party interested shall be required to sell to the purchasing authority that part of the house, building, manufactory, park or garden.

(2) This paragraph shall not have effect in relation to a purchase authorised by a purchase order providing for expedited completion, being a purchase of land as respects which the provisions of the Sixth Schedule to this Act apply to the order.

6. Where land being ecclesiastical property is purchased compulsorily, sums agreed upon or awarded for the purchase of the land, or to be paid by way of compensation for damage sustained by the owner by reason of severance or injury affecting other such land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied for the purposes for which the proceeds of a sale by agreement of the land would be applicable under any enactment or Measure authorising such a sale.

7. Notices required to be served by the purchasing authority may, notwithstanding anything in section nineteen of the Lands Clauses Consolidation Act, 1845, be served and addressed in the manner specified in section fifty-four of this Act in relation to notices required to be served under the Act.

PART II

The Acquisition of Land (Assessment of Compensation) Act, 1919

8. The arbitrator shall not take into account any interest in land, or any enhancement of the value of any interest in land by reason of any building erected, work done or improvement or alteration made, whether on the land purchased or on any other land with which the claimant is, or was at the time of the erection, doing or making of the building, works, improvement or alteration, directly or indirectly concerned, if the arbitrator is satisfied that the creation of the interest, the erection of the building, the doing of the work, the making of the improvement or the alteration, as the case may be, was not reasonably necessary and was undertaken with a view to obtaining compensation or increased compensation.

9.—(1) As respects any house in the area of a local authority for the purposes of the provisions of Part III of the Housing Act, 1936, relating to clearance areas which in their opinion is unfit for human habitation and not capable at reasonable expense of being rendered so fit, and which is comprised—

- (a) in land designated by an order made under section one of this Act, or
- (b) in land for the compulsory purchase of which a local planning or highway authority have resolved to seek authorisation under any enactment in Part I of this Act, or as respects which a Minister proposes to make an order under section three, four or nine thereof,

the local authority for the purposes of the said provisions of the said Part III may make and submit to the Minister of Health an order in such form as may be prescribed by regulations made by the said Minister under section one hundred and seventy-six of the Housing Act, 1936, declaring the house to be in that state, and, if the order is confirmed by him, the compensation to be paid for the house on a compulsory purchase thereof pursuant to any authorisation given by an order under any enactment in Part I of this Act confirmed or made by the Minister having jurisdiction to give such authorisation, either before or without two years after the confirmation by the Minister of Health of the order submitted under this paragraph, shall be assessed in like manner as if it had been land purchased compulsorily under the said Part III as being comprised in a clearance area, and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall accordingly have effect, in its application for the purposes of Part I of this Act, subject to this provision.

(2) Before submitting an order under this paragraph to the Minister of Health, the local authority shall serve on every owner, and, so far as it reasonably practicable to ascertain such persons, on every mortgagee, of the house or of any part thereof, a notice in such form as may be prescribed as mentioned in the preceding sub-paragraph, stating the effect of the order and that it is about to be submitted to the said Minister for confirmation, and specifying the time within which, and the manner in which, objection thereto can be made.

(3) If no objection is duly made by any of the persons on whom notices are required to be served, or if all objections so made are withdrawn, the said Minister

may, if he thinks fit, confirm the order, but in any other case he shall before confirming the order consider any objection not withdrawn and shall, if either the person by whom the objection was made or the local authority so desire, afford that person and the authority an opportunity of appearing before and being heard by a person appointed by the said Minister for the purpose, and may then, if he thinks fit, confirm the order.

(4) Where the provisions of sub-paragraph (1) of this paragraph have effect as to the compensation to be paid for a house on a compulsory purchase thereof under any enactment in Part I of this Act, the provisions of section forty-two of the Housing Act, 1936 (which relate to payments in respect of well-maintained houses) shall have effect, as they have effect where a house is made the subject of a compulsory purchase order under the said Part III as being unfit for human habitation, if the Minister of Health is satisfied as mentioned in that section on a representation made to him by a person who would be entitled to any payment under that section or to a share thereof within three months from his first becoming aware that a notice to treat for the purchase of any interest in the house has been served :

Provided that, in the application of that section for the purposes of this sub-paragraph, there shall be substituted, for references therein to the local authority therein mentioned and to the order therein mentioned, references respectively to the purchasing authority and to the order by which the purchase of the house is authorised.

(5) In this paragraph the expression " house " has the same meaning as in the Housing Act, 1936, and in determining for the purposes of this paragraph whether a house is fit for human habitation regard shall be had to the matters to which regard is required by that Act to be had in determining that question for the purposes of that Act, and sections one hundred and fifty-seven and one hundred and fifty-eight of that Act (which relate to the surveying and examination of land) shall have effect as if the powers conferred by this paragraph were powers under that Act.

10. The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, to withdraw a notice to treat shall not be exercisable in the case of a notice to treat which is deemed to have been served by virtue of section eleven of this Act. [1001]

Sections 18, 53, 65

SIXTH SCHEDULE

PROCEDURE FOR COMPLETION OF COMPULSORY PURCHASE UNDER ORDERS PROVIDING FOR EXPEDITED COMPLETION

PART I

Procedure for expedited completion

1.—(1) Except as provided by sub-paragraph (3) of this paragraph, when a purchase order providing for expedited completion has come into operation the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, shall have effect as if a notice to treat (that is to say, such a notice as is mentioned in section eighteen of the Lands Clauses Consolidation Act, 1845) had been served on every person on whom the purchasing authority could under the terms of that section (and on the assumption of their requiring to purchase or take all the land as respects which this Schedule applies by virtue of the order, and of their having knowledge of all parties referred to in that section) have served such a notice.

(2) The date on which a notice to treat is to be deemed by virtue of the preceding sub-paragraph to have been served on any party in respect of any interest in land shall be the date on which the order is registered in the register of local land charges by the proper officer of the council mentioned in section seventeen of this Act, in whose area that land is situated.

(3) Notwithstanding anything in sub-paragraph (1) of this paragraph, no notice to treat shall be deemed to be served on any person in respect of an interest being either—

(a) a minor tenancy (that is to say a tenancy for a year or from year to year or any less interest) ; or

- (b) a long tenancy which is about to expire (that is to say, a tenancy granted for and interest greater than a minor tenancy but having, at the date when apart from this provision notice to treat would be deemed by virtue of the said sub-paragraph (1) to be served on the owner of the tenancy, still to run only such period longer than a year as may be specified in the order for the purposes of the operation of this provision in relation to the land in which the tenancy subsists, the period which the tenancy has then still to run being ascertained on the assumption that the tenant will exercise any option to renew the tenancy, and will not exercise any option to determine the tenancy, then or thereafter available to him, and that the landlord will exercise any option to determine the tenancy then or thereafter available to him).

(4) The reference in sub-paragraph (1) of this paragraph to the Lands Clauses Acts and the Acquisition of Land (Assessment of Compensation) Act, 1919, is to those enactments as modified by the Fifth Schedule to this Act and by paragraph 3 and Part II of this Schedule (and as amended by Part II of this Act).

2. The notice of the confirmation of an order authorising compulsory purchase required by this Act to be published shall, in the case of a purchase order providing for expedited completion, include a notification to the effect that every person entitled to claim compensation in respect of any of the land as respects which this Schedule applies by virtue of the order, or in respect of any interest in any such land, is invited to give information to the purchasing authority in such form as may be prescribed of his name and address and of the land and interest in question.

3.—(1) At any time or from time to time after the coming into operation of a purchase order providing for expedited completion, but not earlier than such time as is mentioned in sub-paragraph (2) of this paragraph, the purchasing authority may execute, as respects an area consisting either of the whole or a part of the land as respects which this Schedule applies by virtue of the order, a declaration designating that area and stating—

- (a) their intention to enter on the land in the designated area and take possession thereof at the expiration of such period (not being less than fourteen days) as may be specified therein from the date on which the service of notices on occupiers required by sub-paragraph (3) of this paragraph is completed; and
- (b) that the land in the designated area is to vest in the authority at the expiration of that period.

(2) The earliest time at which such a declaration may be executed shall be the expiration of two months from the date of first publication of the notice of confirmation of the order required by this Act to be published:

Provided that the order may provide for the substitution of a period longer or shorter than two months for the purposes of the operation of this sub-paragraph as respects any land, so however, that provision for the substitution of a shorter period shall not be so made in relation to any land unless the order as submitted or the draft of the order or the application therefor, as the case may be, made such provision in relation thereto.

(3) As soon as may be after executing such a declaration the purchasing authority shall serve upon every occupier of any of the land in the area designated thereby (other than any of the land therein in which a minor tenancy, or a long tenancy which is about to expire, is subsisting), and on every other person who has given information to the authority in relation to any of the land therein pursuant to such invitation as is mentioned in paragraph 2 of this Schedule, a notice describing that area and stating the effect of the declaration.

(4) At the expiration of the period specified in such a declaration from the date on which the service of notices on occupiers required by the last preceding sub-paragraph is completed (as to which date a certificate given by the purchasing authority shall be conclusive)—

- (a) there shall vest in the purchasing authority the right to enter on and take possession of the land in the area designated by the declaration or any of it without previous consent or compliance with sections eighty-four to ninety of the Lands Clauses Consolidation Act, 1845; and

- (b) the land in the area designated by the declaration shall vest in the purchasing authority as if the circumstances in which under the Act the promoters of an undertaking have powers to execute a deed poll for vesting in them lands or any estate or interest in lands, or for extinguishment of, or of a portion of, any rent service, rentcharge, chief or other rent, payment or incumbrance, had arisen as regards all the said land and, subject to the next succeeding sub-paragraph, as regards all interests therein, and the authority has duly exercised those powers accordingly at the expiration of the said period ;

but the purchasing authority shall be liable to pay the like compensation for the said land, and interest on the compensation agreed or awarded, as they would have been required to pay if the provisions of sections eighty-four to ninety of the said Act, and the provisions thereof compliance with which would have been requisite in order to render the said powers exercisable by them, had been complied with.

(5) Notwithstanding anything in sub-paragraph (1) or (4) of this paragraph, the following provisions shall have effect as respects land in an area designated by a declaration made under sub-paragraph (1) of this paragraph in which a minor tenancy, or a long tenancy which is about to expire, is subsisting, that is to say—

- (a) in the case of a minor tenancy, the right of entry conferred by sub-paragraph (4) of this paragraph shall not be exercisable, and the vesting of the land in the authority shall be subject to the tenancy during its subsistence, but without prejudice to any power to require a tenant to give up possession exercisable by the purchasing authority by virtue of the Lands Clauses Acts ;
- (b) in the case of a long tenancy which is about to expire, the right of entry conferred by sub-paragraph (4) of this paragraph shall not be exercisable unless or until the purchasing authority have served notice to treat in respect of the tenancy and they have thereafter served a notice upon every occupier of any land in which the tenancy subsists describing the land to which the notice relates and stating their intention to enter on and to take possession thereof at the expiration of such period (not being less than fourteen days) from the date on which the notice is served as may be therein specified, and that period has expired, and the vesting of the land in the authority shall be subject to the tenancy until the expiration of that period or the cesser of the tenancy, whichever first occurs.

(6) Every notice of the confirmation of a purchase order providing for expedited completion required by this Act to be published shall refer to the provisions as to entry and vesting contained in sub-paragraph (4) of this paragraph.

4. Where the land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion comprises part only of any house, building or manufactory, or of a park or garden belonging to a house, then if at any time after the coming into operation of the order and before the making of a declaration under the last preceding paragraph as respects the said part any person having an interest therein in respect of which a notice to treat would otherwise be deemed by virtue of this Schedule to have been served gives notice to the purchasing authority in that behalf, no notice to treat shall be deemed by virtue of this Schedule to have been served in respect of any interest in the said part, and as from the giving of the notice the order shall have effect in relation to the said part as if this Schedule had not been applied thereto.

5.—(1) Where the compensation payable in respect of an interest which becomes vested in a purchasing authority by virtue of paragraph 3 of this Schedule, or the amount of any sum payable as a supplement thereto, is not finally ascertained at the time of such vesting, section twelve of the Finance Act, 1895 (which provides for the collection of stamp duty, where property is vested by way of sale by virtue of an Act, within three months from the date of vesting) shall have effect, as respects the vesting of that interest, with the substitution for the reference therein to the date of vesting of a reference to the date on which the compensation, together, if any sum is payable as a supplement thereto, with the amount of that sum, has become finally ascertained.

(2) Where after the vesting in a purchasing authority under paragraph 3 of this Schedule of any land a person retains possession of any document relating to the title to the land, he shall be deemed to have given to the authority an acknowledg-

ment in writing of the right of the authority to production of that document and to delivery of copies thereof, and (except where he retains possession of the document as mortgagee or as trustee or otherwise in a fiduciary capacity) an undertaking for safe custody thereof, and section sixty-four of the Law of Property Act, 1925, shall have effect accordingly, and on the basis that the acknowledgment and undertaking did not contain any such expression of contrary intention as is mentioned in that section.

PART II

Adjustments where provision for expedited completion made

6.—(1) The time within which a question of disputed compensation arising out of an acquisition of an interest in land in respect of which a notice to treat is deemed to have been served by virtue of this Schedule may be referred to arbitration shall be the expiration of six years from the date at which the person claiming compensation or a person under whom he derives title first knew, or could reasonably be expected to have known, of the vesting interest by virtue of paragraph 3 of this Schedule.

(2) This paragraph shall be construed as one with Part I of the Limitation Act, 1939.

7. The power conferred by subsection (2) of section five of the Acquisition of Land (Assessment of Compensation) Act, 1919, or that subsection as applied by paragraph 3 of the Fourth Schedule to this Act, to withdraw a notice to treat shall, in the case of a notice to treat which is deemed to have been served by virtue of this Schedule, not be exercisable at any time after the vesting by virtue of paragraph 3 of this Schedule of the interest in respect of which the notice is deemed to have been served.

8. In relation to a compulsory purchase authorised by a purchase order providing for expedited completion, being a purchase of an interest in respect of which a notice to treat is deemed to have been served by virtue of this Schedule, the following sections of the Lands Clauses Consolidation Act, 1845, shall be excepted from the incorporation of that Act with Part I of this Act, that is to say, sections fifty-eight to sixty-two and sixty-four to sixty-seven (which relate to the mode of ascertaining compensation to absent parties), section ninety-two (which relates to sales of parts of buildings) and sections one hundred and twenty-four to one hundred and twenty-six (which relate to interests which have by mistake been omitted to be purchased).

9.—(1) Where any of the land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion constitutes a part only of land charged with rentcharge, the following provisions of this paragraph shall have effect.

(2) Any question as to the apportionment mentioned in section one hundred and sixteen of the Lands Clauses Consolidation Act, 1845, shall be referred and determined, as mentioned in section one of the Acquisition of Land (Assessment of Compensation) Act, 1919.

(3) Such portion of the rentcharge as may be apportioned under the said section one hundred and sixteen to the land as respects which this Schedule applies by virtue of the order shall be treated as having been extinguished by virtue of paragraph 3 of this Schedule on the vesting of that land in the purchasing authority under that paragraph, and sections one hundred and fifteen to one hundred and eighteen of the Lands Clauses Consolidation Act, 1845, shall have effect as if the extinguishment had taken place under section one hundred and seventeen thereof :

Provided that if the person entitled to the rentcharge and the owner of the land subject thereto enter into an agreement to that effect, the said sections one hundred and fifteen to one hundred and eighteen shall have effect as if the person entitled to the rentcharge had released therefrom the land as respects which this Schedule applies by virtue of the order, on the condition mentioned in the said section one hundred and sixteen, at the time of the vesting of that land in the purchasing authority under paragraph 3 of this Schedule, and in that case none of the rentcharge shall be treated as having been extinguished by virtue of that paragraph so far as regards the remaining part of the land charged therewith.

(4) In this paragraph reference to a rentcharge include references to any such rent service, chief or other rent, or other payment or incumbrance as is mentioned in the words introductory to the said sections one hundred and fifteen to one hundred and eighteen.

10. Where any of the land as respects which this Schedule applies by virtue of a purchase order providing for expedited completion constitutes a part only of land comprised in a lease for a term of years unexpired, section one hundred and nineteen of the Lands Clauses Consolidation Act, 1845, shall have effect subject to the modification that for references therein to the time of the apportionment of rent therein mentioned there shall be substituted references to the time of the vesting in the purchasing authority of the leasehold interest in the first-mentioned land under paragraph 3 of this Schedule.

11. Any person who in consequence of the vesting of any land in the authority by virtue of paragraph 3 of this Schedule is relieved from any liability, whether in respect of a rentcharge, rent under a lease, mortgage interest or any other matter, and who makes any payment as in satisfaction or part satisfaction of that liability shall, if he shows that when he made the payment he did not know of the facts which constitute the cause of his being so relieved or of some one or more of them, be entitled to recover the sum paid as money had and received to his use by the person to whom it was paid.

PART III

Interpretation

12. In this Schedule references to the confirmation of an order shall be construed, in relation to an order made by a Minister or by a Minister and the appropriate Minister as references to the making of the order. [1002]

Section 57

SEVENTH SCHEDULE

PROVISION AS TO OPERATION IN CERTAIN SPECIAL CASES OF RULE IN SECTION 57 (1) AS TO ASSESSMENT OF COMPENSATION

1. Where in ascertaining the value of any such interest, or the amount of any such damage, as is mentioned in subsection (1) of section fifty-seven of this Act regard is to be had to rent payable in respect of a tenancy created after the thirty-first day of March, nineteen hundred and thirty-nine (whether the tenancy is vested in the person claiming the compensation or not) the said rent shall be taken to be the lesser of the two following amounts, that is to say—

- (a) the rent in fact payable in respect of the tenancy ; or
- (b) the maximum rent which would have been obtainable from a willing tenant if the tenancy had been created on the thirty-first day of March, nineteen hundred and thirty-nine, for the like term and subject to the like covenants and conditions.

2. Where the value of any such interest, or the amount of any such damage, as aforesaid is increased by reason of the possibility of redeveloping the land in which the interest subsists, or the land affected by severance or injuriously affected, as the case may be, in combination with other land, the amount of the increase shall be disregarded in so far as that possibility is attributable to circumstances, other than the effluxion of time, occurring since the thirty-first day of March, nineteen hundred and thirty-nine.

3. In ascertaining the value of any such interest as aforesaid, or the amount of any such damage as aforesaid, a dwelling-house to which the Rent and Mortgage Interest (Restrictions) Acts, 1920 to 1925, applied at the time of service of the notice to treat shall not be treated as a dwelling-house to which those enactments then applied unless they applied thereto at the thirty-first day of March, nineteen hundred and thirty-nine.

4. Where a person is in possession of a holding as defined for the purposes of the Agricultural Holdings Act, 1923, having an interest therein greater than as tenant for a year or from year to year, then so far as the value of the interest is attributable to crops it shall be ascertained in like manner as in the case of the interest of a tenant from year to year, that is to say, without regard to the rule set out in subsection (1) of section fifty-seven of this Act. [1003]

Section 61

EIGHTH SCHEDULE

ASCERTAINMENT OF COMPENSATION FOR PURCHASE OF LAND VALUED UNDER THE WAR DAMAGE ACT, 1943

Certified after-damage value of land to be taken in certain circumstances as its value for compensation on compulsory purchase

1.—(1) Where the subject of a compulsory purchase, the compensation for which is by virtue of section fifty-seven of this Act to be assessed subject to the rule set out in subsection (1) of that section, is or comprises an interest in the whole of the land in a hereditament within the meaning of the War Damage Act, 1943, the value of which is required by that Act to be ascertained by reference to its state after war damage and to an assumed date thereof, the value of the said land for the purposes of the ascertainment of the compensation of the purchase shall be taken to be such amount as may be certified by the War Damage Commission to be the value of the hereditament as ascertained as aforesaid (in this Schedule referred to as the "certified after-damage value" of that land), subject, however, to the two next succeeding sub-paragraphs.

(2) The preceding sub-paragraph shall not have effect if between the occurrence of the war damage and the time when the notice to treat is served the land in the hereditament has been brought into a state such as to make it capable of being beneficially used while remaining in that state as it was immediately before the occurrence of the war damage.

(3) If the land in the hereditament has not been brought into such a state as aforesaid, but there is any material difference either—

- (a) between the state of the land in the hereditament after damage by reference to which the value thereof falls to be ascertained under the War Damage Act, 1943, and its state at the time when the notice to treat is served; or
- (b) between the incumbrances, if any, to which the said land was subject immediately after the occurrence of the war damage and the incumbrances, if any, to which it is subject at the time when the notice to treat is served, being incumbrances of a kind required by the said Act to be taken into account in ascertaining the value of the hereditament,

the value of the said land for the purposes of the ascertainment of the compensation for the purchase shall be taken to be the certified after-damage value thereof adjusted by adding, or by subtracting, as the case may require, the amount by which the value of the hereditament as required to be ascertained under the said Act would have been greater or less if that value had fallen to be ascertained by reference to the state of the hereditament at the time when the notice to treat is served, and if it had been subject immediately after the occurrence of the war damage to all incumbrances of any such kind as aforesaid to which it is subject at the time when the notice to treat is served and to no other incumbrances of any such kind.

(4) Where this paragraph has effect as respects a purchase the subject of which comprises, but does not consist solely of, the interest in question in the land in the hereditament the compensation for the purchase shall be ascertained, and all statutory provision relating to the ascertainment thereof or to the carrying out of the purchase or to matters connected therewith shall have effect, subject to any agreement between the purchasing authority and other parties concerned, as if the interest in question in that land had been purchased separately and separate notices to treat had been served accordingly, and had been served simultaneously.

Compensation for compulsory purchase of several intervals in land to be ascertained in certain circumstances by apportionment of certified after-damage value thereof

2.—(1) Where by virtue of paragraph 1 of this Schedule the value of the land comprised in a hereditament is to be taken for the purposes of the ascertainment of compensation to be its certified after-damage value (or that value as adjusted), and notices to treat have been served in respect of two or more interests in the whole of that land on the same date or within such period as may be fixed as respects that land under rules, the compensation to be paid for the purchase of each of those

interests shall be ascertained in accordance with the following provisions of this paragraph.

(2) The amount representing the value of each of those interests as it would have fallen to be ascertained if this paragraph had not had effect in relation thereto shall be agreed, assessed or determined in accordance with the provisions of sub-paragraphs (3) to (7) of this paragraph, and the compensation to be paid for the purchase of each interest shall be the proportion of the certified after-damage value of the land, or of that value as adjusted, as the case may be, which the amount agreed, assessed or determined in respect of that interest bears to the aggregate of the amounts agreed, assessed or determined in respect of the several interests:

Provided that if the interests in question do not include all interests subsisting in the land at the date or at the expiration of the period aforesaid, an amount representing the value of any excluded interest, as it would have fallen to be ascertained if that interest had been purchased and this paragraph had not had effect in relation thereto, shall be agreed, assessed or determined in accordance with the said provisions and added to the said aggregate.

(3) If the values of the several interests in question and of any excluded interest are not otherwise agreed, the claimant in respect of each of the interests in question, and the purchasing authority as respects any excluded interest, shall cause an estimate of the value of that interest to be made and transmitted to an officer of the Valuation Office appointed by the Commissioners of Inland Revenue, and that officer shall, after considering the estimates, take steps in accordance with rules for securing if possible agreement between the claimants, and if there is any excluded interest, the purchasing authority, as to the value of each interest.

(4) In default of agreement as to the value of any interest the said officer shall make an assessment of the value of that interest.

(5) The cost of the employment by a claimant of a person skilled in valuation to advise or act for him for the purposes of either of the last two preceding sub-paragraphs on a purchase by a local or public authority within the meaning of the Acquisition of Land (Assessment of Compensation) Act, 1919, shall be paid by the authority.

(6) If any claimant, or, if there is any excluded interest, the purchasing authority, is aggrieved by an assessment made by the said officer, the claimant or the authority may in accordance with rules require the value of the interest dealt with by the assessment to be determined by one of the panel of arbitrators appointed under section one of the said Act of 1919.

(7) If in respect of any of the interests in question no claim is duly made within the time prescribed by rules, an independent person skilled in valuation may be appointed in accordance with rules to act for the purposes of sub-paragraphs (3) to (6) of this paragraph in respect of that interest, and those sub-paragraphs shall have effect as if all things done thereunder by the person so appointed had been duly authorised, by all persons concerned in respect of the interest in question, to be done by that person as agent for them.

(8) Where the last preceding sub-paragraph has had effect as respects any interest and the value thereof has been agreed or assessed under sub-paragraph (3) or (4) of this paragraph, if any person who would have been entitled but for this paragraph to have any question of disputed compensation in relation to that interest referred to arbitration in accordance with the said Act of 1919 shows in accordance with rules that the fact that no claim was made as aforesaid was not attributable to any default on his part, he may in accordance with rules require the value of that interest to be determined by one of the panel of arbitrators appointed under section one of the said Act of 1919, and if the compensation on the basis of the value of the interest as so determined is greater or less than the compensation on the basis of the value thereof as agreed or assessed as aforesaid, the difference shall be recoverable by the person entitled to the compensation from the purchasing authority or by the authority from him, as the case may be.

(9) The cost of any arbitration under sub-paragraph (6) or (8) of this paragraph, including any fees charges and expenses of the arbitration or award, shall be in the discretion of the official arbitrator, who may direct to and by whom and in what manner those costs or any part thereof shall be paid, and the official arbitrator may in any case disallow the costs of counsel.

(10) The amount of any costs that an authority are liable to pay by virtue of sub-paragraph (5) of this paragraph, or of any arbitration under sub-paragraph (6) or (8),

thereof shall be determined by reference to scales to be prescribed by the Treasury, and in case of difference as to the amount of any such costs they shall, if payable under sub-paragraph (5) of this paragraph, be taxed in such manner as the Treasury may direct, or, if payable under direction of an official arbitrator, be taxed by him or in such manner as he may direct.

Rules for giving effect to preceding provisions of this Schedule

3. Provision may be made by rules made by the Lord Chancellor, after consultation with the Reference Committee referred to in the Acquisition of Land (Assessment of Compensation) Act, 1919, for giving effect to the provisions of the two preceding paragraphs, for prescribing anything thereby required to be determined by rules, and in particular, but without prejudice to the generality of the power by this paragraph :—

- (a) for the determination of any question whether land has been brought into a state such as is mentioned in sub-paragraph (2) of paragraph 1 of this Schedule, of any question whether there is any such material difference as is mentioned in sub-paragraph (3) of that paragraph, and, in a case in which there is any such difference, how the certified after-damage value ought to be adjusted ;
- (b) for regulating the proceedings for the ascertainment of compensation, where the value of any land for the purposes of the ascertainment thereof is to be taken to be the certified after-damage value of the land (or that value as adjusted), so as to secure that the requisite certificate and particulars of any requisite adjustment may be rendered available for those purposes ;
- (c) for fixing the period referred to in sub-paragraph (1) of paragraph 2 of this Schedule within which, where a notice to treat has been served as respects an interest in the whole of the land in a hereditament, such a notice in respect of any other interest therein must be or have been served in order to render the provisions of that paragraph applicable to the ascertainment of the compensation to be paid for the purchase of those interests, and for securing, so far as may be practicable, that all such notices intended to be given as respects interests in the whole of the land in a hereditament shall be given within the period fixed ;
- (d) for specifying limits of time within which things required or authorised by paragraph 2 of this Schedule must be done, with or without power to persons designated by the rules to extend such limits ;

and references in paragraph 2 of this Schedule to rules shall be construed as references to rules made under this paragraph. [1004]

ORDERS, CIRCULARS AND MEMORANDA

TOWN AND COUNTRY PLANNING ADDITIONAL REGULATIONS, 1944 *

S. R. & O., 1944, No. 319

March 9, 1944

B18.

The Minister of Town and Country Planning in pursuance of the powers conferred upon him by the Town and Country Planning Act, 1932, as amended by the Town and Country Planning (Interim Development) Act, 1943, and all other powers enabling him in that behalf, hereby makes the following Regulations :—

1. These Regulations may be cited as the Town and Country Planning Additional Regulations, 1944. [1005]

* These Regulations supersede the Provisional Regulations to like effect, which were made on the 14th day of August, 1943, and came into force on that date.

2.—(1) In these Regulations unless the context otherwise requires :—

“ The Act ” means the Town and Country Planning (Interim Development) Act, 1943 (6 & 7 Geo. 6, c. 29) ;

“ The Minister ” means the Minister of Town and Country Planning ;

“ Interim development authority ” means a local authority, county council, or joint committee empowered by an interim development order to permit the development of land ;

“ Certified copy ” means a copy certified by any person duly authorised by the interim development authority in that behalf, as being a true copy.

(2) The Interpretation Act, 1889 (52 & 53 Vict. c. 63) shall apply to the interpretation of these Regulations as it applies to the interpretation of an Act of Parliament. [1006]

3. A notice required to be served in pursuance of subsection (2) of Section 2 of the Act may be served :—

- (i) by delivering it at the residence of the person on whom it is to be served, or sending it by prepaid post addressed to that person at his residence ; or
- (ii) if the notice is to be served on an incorporated company or body, by delivering it to the secretary or clerk of the company or body at their registered or principal office, or sending it by prepaid post addressed to the secretary or clerk of the company or body at that office ; or
- (iii) if the notice to be served relates to an application which has been made by an agent acting on behalf of the applicant, by delivering it to that agent or sending it by prepaid post addressed to him at his place of business.

4.—(1) A notice required to be served in pursuance of subsection (3) of Section 4 of the Act may be served in the manner specified in Article 3 of these Regulations, or if the interim development authority are unable after reasonable inquiry to ascertain the name or address of the person upon whom it should be served, by addressing it to him by the description of “ owner ” or “ occupier ” of the premises (naming them) to which the revocation or modification relates, or of the premises (naming them) of which the owner or occupier will be affected by reason of his ownership or occupation, and by delivering it to some person on the premises, or, if there is no person on the premises to whom it can be delivered, by affixing it or a copy thereof to some conspicuous part of the premises.

(2) Where service under paragraph (1) of this Article is made by post the notice shall be sent by registered post. [1007]

5. A notice required to be served in pursuance of paragraph 1 of the First Schedule to the Act may be served in the manner specified in Article 4 of these Regulations. [1008]

6.—(1) Where an interim development authority make an order under Section 8 of the Act with respect to trees or woodlands, and specify in the order trees, groups of trees, or woodland areas to be protected, they shall, by reference to a map on a scale of not less than 25 inches to the mile or such smaller scale as the Minister may in any particular case or class of cases approve, define the woodland areas, and indicate the position of the trees or groups of trees.

(2) The interim development authority shall as soon as may be after the making of an order under Section 8 of the Act, submit two duplicates of the order and of the map (if any) to the Minister for his approval, together with

a statement of the grounds on which they consider that the order should be made.

(3) The interim development authority shall forthwith give notice by advertisement of the submission of the order to the Minister, in a newspaper circulating in the area of the authority, and shall include in the notice a statement that the order and the map (if any) or certified copies thereof, will be open for inspection at a specified place or specified places and between specified hours, and that any objections or representations with reference thereto may be sent in writing to the Minister within fourteen days from the date of publication of the advertisement, and where the order has been provisionally approved by the Minister under the proviso to subsection (3) of Section 8 of the Act shall include in the notice a statement to that effect.

(4) Where the interim development authority specify in the order trees, groups of trees, or woodland areas to be protected, they shall, in addition to the publication of the advertisement as aforesaid, serve a copy of the order on the owner and occupier of the land upon which the trees, groups of trees, or woodland areas are situate and, where known, on the person entitled to fell the trees or woodlands, together with a notice containing the particulars mentioned in the last preceding paragraph, but with the substitution for the period therein specified within which objections or representations may be sent to the Minister, of a period of fourteen days from the date of the service of the notice.

(5) The interim development authority shall furnish the Minister with a certified copy of every advertisement published under the provisions of paragraph (3) of this Article.

(6) The Minister shall take into consideration any objections or representations in writing received by him within the time specified under paragraphs (3) and (4) of this Article, and if a local inquiry is held, the report of the inquiry and shall approve the order either without modification or subject to such modifications as he thinks fit, or disapprove it.

(7) The interim development authority shall, after they have received notice from the Minister that he has approved the order, forthwith give notice thereof by advertisement, and shall include in the notice a statement that the order as approved by the Minister and the map (if any), or certified copies thereof, will be open for inspection at a specified place or specified places and between specified hours. The interim development authority shall also, where trees, groups of trees, or woodland areas are specified in the order, serve a copy of the order as approved, and where there is a map, a notice containing the particulars mentioned in this paragraph, on the owner and occupier of the land upon which the trees, groups of trees, or woodland areas are situate and, where known, on the person entitled to fell the trees or woodlands. [1009]

7.—(1) Where under the provisions of Article 6 of these Regulations notice is required to be given of facilities for the inspection of an order or map, the interim development authority shall arrange for the order or map to be deposited at a place or places convenient for persons affected.

(2) The interim development authority shall arrange for giving access to the order or map at all reasonable hours and without payment of any fee, and the order or map shall be kept deposited and available for inspection throughout the period specified in the notice for making objections or representations.

(3) For the purpose of this Article "order or map" includes a certified copy of the order or map. [1010]

8. Where the interim development authority are of the opinion that the matter is one of urgency and should be dealt with by the Minister under

the proviso to subsection (3) of Section 8 of the Act, they shall defer giving notice of the submission of the order to him until they have been informed of this decision as to the provisional approval of the order, and if they are informed that he has decided to approve the order provisionally they shall, where trees, groups of trees, or woodland areas are specified in the order, serve a notice to that effect on the owner and occupier of the land upon which the trees, groups of trees, or woodland areas are situate, and where known on the person entitled to fell the trees or woodlands, together with a copy of the order and of the notice specified in paragraph (4) of Article 6 of these Regulations. [1011]

9. A notice or other document required to be served in pursuance of Articles 6 and 8 of these Regulations may be served in the manner specified in paragraph (1) of Article 4 of these Regulations. [1012]

TOWN AND COUNTRY PLANNING (DEVELOPMENT BY AUTHORITIES) REGULATIONS, 1944

S. R. & O., 1944, No. 1309

November 18, 1944

B113.

The Minister of Town and Country Planning in pursuance of the powers conferred upon him by the Town and Country Planning Act, 1944, and all other powers enabling him in that behalf, hereby makes the following Regulations :—

1.—(1) These Regulations may be cited as the Town and Country (Planning (Development by Authorities) Regulations, 1944.

(2) These Regulations shall come into force on the date hereof and shall, unless previously revoked, cease to take effect at the expiration of a period of six months from the date hereof.

(3) The Interpretation Act, 1889 (52 & 53 Vict. c. 63), shall apply to the interpretation of these Regulations as it applies to an Act of Parliament. [1013]

2. The consent of the Minister of Town and Country Planning shall not be required under Section 32 of the Town and Country Planning Act, 1944, in respect of any development carried out during the continuance in force of these Regulations by any such Authority as is mentioned in that section, unless notice in writing has been given by the Minister of Town and Country Planning to that Authority requiring that an application shall be made for his consent in respect of that development. [1014]

WATER SUPPLY

STATUTES :—

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STATUTES

THE RURAL WATER SUPPLIES AND SEWERAGE
ACT, 1944

(7 & 8 Geo. 6, c. 26)

PRELIMINARY NOTE

The schemes and work contemplated by this Act form an important part of the Government's Post-War Reconstruction Programme. The Act places at the disposal of the Minister of Health a sum of £15,000,000 to assist schemes executed after the war for the provision or improvement of water supply and for the provision of sewerage facilities in rural localities in England and Wales. The schemes contemplated by the Act will be based upon the obligation placed upon local authorities by s. 3 of the Act, which amends s. 111 of the Public Health Act, 1936, by making it obligatory upon local authorities, where it is practicable at reasonable cost, to provide a supply of wholesale water in pipes to all rural localities in their district in which there are houses or schools, and to take the pipes affording the supplies to such points as will enable the houses or schools to be connected at reasonable cost.

The provisions of the Act, and the policy proposed to be pursued by the Minister of Health, are clearly explained in Ministry of Health Circular 119/44, which is quoted in full at p. 388, *post*.

The rate of grant under the Act is not fixed, but wherever a grant is made by the Minister the county council must also make a contribution.

Except as regards undertakings given before the passing of this Act, the Act repeals the Rural Water Supplies Act, 1934. [1015]

An Act to make provision as to water supplies, sewerage and sewage disposal in rural localities, and to make expenses incurred by rural district councils in connection with water supply, sewerage and sewage disposal general expenses.
[1016] [27th July, 1944.]

1. Government contributions towards expenses of local authorities for rural water supplies and sewerage.—(1) Subject to such conditions as the Treasury may determine, the Minister of Health (in this Act referred to as "the Minister") may, in any case in which it appears to him to be desirable so to do, undertake to make a contribution towards the expenses incurred by a local authority at any time after the passing of this Act—

- (a) in providing a supply, or improving an existing supply, of water in a rural locality;
- (b) in making adequate provision for the sewerage, or the disposal of the sewerage, of a rural locality:

Provided that the Minister shall not undertake to make a contribution towards the expenses of making provision for the sewerage, or the disposal of the sewage, of a rural locality unless he is satisfied that the need for making the provision is due to anything done or proposed to be done, whether before or after the passing of this Act, to supply, or increase the supply of, water in pipes in that locality. [1017]

(2) Subject to the provisions of the next succeeding subsection, an undertaking under this section shall provide for the making of the contribution in the form of a lump sum, payable either as a whole on the completion of the works to be executed or of the transaction to be effected for the purposes of the supply of water, or the purposes of sewerage or sewage disposal, as the case may be, or, in the case of the execution of works, in instalments on the completion of parts of the works. [1018]

(3) Where the expenses incurred by the local authority are expenses in respect of liabilities arising from time to time under a lease or hiring agree-

ment or a contract for the supply of water or for sewage disposal, an undertaking under this section may provide for the making of the contribution in the form of sums payable from time to time, within any period not exceeding twenty years from the date of the undertaking.

In this subsection, the expression "contract for the supply of water" includes any undertaking to make, or guarantee of, payments to a person supplying water given under section one hundred and twenty-three of the Public Health Act, 1936, or under this Act. [1019]

(4) The Minister may withhold, or reduce the amount of, a contribution which he has undertaken to make towards the expenses incurred by a local authority in respect of any works or transaction, if it appears to him either—

- (a) that any of the works have been executed in an unsatisfactory manner; or
- (b) that the effectiveness of any of the works is substantially less than as estimated in the proposals submitted to him by the local authority, and that the difference is due to any default, for which the local authority is responsible, in the formulation of the proposals; or
- (c) that there has been any default in the carrying out of the transaction.

[1020]

(5) Any contributions made by the Minister under this section shall be defrayed out of moneys provided by Parliament, and shall not, in the aggregate, exceed fifteen million pounds. [1021]

(6) Local authorities, for the purposes of this section, shall be—

- (a) the council of any borough or urban or rural district;
- (b) the council of a county which is for the time being exercising the functions relating to water supply or sewerage or sewage disposal of any such council as aforesaid by virtue of an agreement under section three hundred and twenty, or an order under section three hundred and twenty-one, of the Public Health Act, 1936, or by virtue of a local Act (whether passed before or after the passing of this Act);
- (c) a joint board, or joint committee, constituted by or under any Act (whether public general or local and whether passed before or after the passing of this Act) for the purposes of the provision of a common water supply or common sewerage or common sewage disposal. [1022]

(7) The Rural Water Supplies Act, 1934, shall cease to have effect except as respects undertakings thereunder given before the passing of this Act. [1023]

Object of section.—This section enables the Minister of Health to make contributions towards the cost incurred by local authorities in providing or improving supplies of water in rural localities (as defined in the Act), and in making adequate provision for the sewerage, or the disposal of the sewage, of a rural locality. In the case of sewerage or sewage disposal schemes, the need for making provision must be due to the provision or improvement of a supply of water in that locality. As to the contributions which are to be made by the county council wherever the Minister of Health undertakes to make a contribution under this section, see s. 2, *post*.

Local authority.—"Local authority," for the purposes of this section, is defined in sub-s. (6), *supra*. It should be noted that the Act applies not only to rural districts but to urban districts and boroughs also.

Rural locality.—This term is not specifically defined in the Act, but it will be noted from the definition of "local authority" in sub-s. (6), *supra*, that it is not limited to localities within the area of a rural district council. S. 3, *post*, provides some degree of explanation by placing upon local authorities an obligation to provide a piped water supply to "every rural locality in their district in which there are houses or schools." Ministry of Health Circular 119/44, p. 388, *post*, states that "while it may not always be practicable to bring piped supplies to every part of a district . . . the main object of the scheme of grants is to secure that as far as possible water in pipes is made accessible to all or nearly all sizeable groups of houses."

The passing of this Act.—The Act received the Royal Assent on July 27, 1944.

Contract for the supply of water.—This phrase is defined in sub-s. (3), *supra*. S. 123 of the Public Health Act, 1936, authorises a local authority to undertake to pay to any person

supplying water, or guarantee to any such person of, such periodical or other sums as may be agreed as a consideration for that person giving a supply of water, so far as he can lawfully do so, within any part of the authority's district, and executing any works necessary for that purpose.

Public Health Act, 1936, ss. 320 and 322.—These sections respectively enable local authorities by agreement to relinquish certain of their functions to the county council, and the Minister of Health by order to transfer such powers to the county council in the event of default by the local authority. So far as this Act is concerned, however, s. 322 of the Public Health Act, 1936, is amended by s. 4, *post*.

2. Contributions by county councils.—(1) Where the Minister undertakes under the preceding section to make a contribution towards expenses incurred by the council of any borough or urban or rural district or by a joint board or joint committee, the council of the county within which the area of the authority to whom the undertaking is given falls, or, where that area falls within more than one county, the councils of each of the counties, shall undertake to make towards those expenses contributions of such amount, and payable at such times and subject to such conditions, as may be agreed between the council and the authority or in default of agreement as may be determined by the Minister :

Provided that, where the amount of any such contribution is determined by the Minister, it shall not, without the consent of the council of the county, exceed the amount of the contribution which the Minister has himself undertaken to make. [1024]

(2) Where the council of any borough or urban or rural district or a joint board or joint committee submit to the Minister proposals with a view to his undertaking, under the preceding section, to make a contribution towards the expenses incurred by them in carrying out the proposals, they shall—

- (a) before submitting the proposals to him, transmit for their observations thereon particulars thereof to the council of any county which will, under this section, be bound to undertake to make contributions towards those expenses if the Minister gives the undertaking ; and
- (b) report to the Minister, when they submit the proposals to him, the observations, if any, of any such county council thereon. [1025]

(3) Where, under the preceding section, the Minister withholds, or reduces the amount of, a contribution which he has undertaken to make thereunder towards any such expenses as aforesaid, the council of the county may withhold, or, as the case may be, reduce in the same proportion, the amount of the contributions which they have undertaken under this section to make towards those expenses. [1026]

Object of section.—By this section, wherever the Minister of Health undertakes to make a contribution under s. 1, *ante*, the county council within whose area the local authority concerned falls must also make a contribution. If the local authority wishes to apply to the Minister for a grant it must first submit its proposals to the county council and thereafter submit to the Minister with the proposals any observations which the county council may make.

Sub-s. (3).—This subsection refers to the power of the Minister under s. 1 (4), *ante*, to withhold, or reduce the amount of, a contribution which he has undertaken to make.

3. Extension of duties of local authorities and joint boards as to water supply.—(1) Every local authority shall provide a supply of wholesome water in pipes to every rural locality in their district in which there are houses or schools, and shall take the pipes affording that supply to such point or points as will enable the houses or schools to be connected thereto at a reasonable cost :

Provided that—

- (a) this subsection shall not require a local authority to do anything which is not practicable at a reasonable cost ; and
- (b) if any question arises under this subsection as to whether anything is or is not practicable at a reasonable cost or as to the point or

points to which pipes must be carried in order to enable houses or schools to be connected to them at a reasonable cost, the Minister, if requested so to do by the council of the county or by ten or more local government electors in the district of the local authority, shall, after consulting the local authority, and, where the request was made by local government electors, after consulting also the council of the county, if any, determine that question and the local authority shall give effect to his determination. [1027]

(2) The Public Health Act, 1936, shall have effect as if the obligations imposed by the preceding subsection were part of the obligations imposed on local authorities by section one hundred and eleven of that Act, and expressions to which a meaning is assigned by section three hundred and forty-three of that Act have the same meanings for the purposes of this section. [1028]

(3) The obligations of any joint board constituted under the Public Health Act, 1875, or, before the passing of this Act, under the Public Health Act, 1936, for the purpose of discharging the functions relating to water supply of two or more local authorities shall, as respects rural localities within the district of the board, include the obligations which are imposed on local authorities by virtue of the preceding provisions of this section as respects rural localities within their respective districts, and the enactments and orders relating to any such board shall have effect accordingly. [1029]

Object of section.—This section extends the obligation placed upon local authorities by s. 111 of the Public Health Act, 1936, to secure a sufficient supply of wholesome water within their districts. It also makes provision, in sub-s. (1) (b), *supra*, for the determination of questions arising under the section.

Local authority.—See sub-s. (2) of this section and s. 343 of the Public Health Act, 1936.

Rural locality.—See notes to s. 1, *ante*.

Public Health Act, 1936, s. 343.—S. 343 is the interpretation section of the Public Health Act, 1936, and defines a number of the terms used in this section.

4. Amendment of s. 322 of the Public Health Act, 1936.—Where—

- (a) the Minister has made an order under subsection (2) of section three hundred and twenty-two of the Public Health Act, 1936, declaring a council or joint board to be in default; and
- (b) that council or board has failed to comply with any requirement thereof within the time limited thereby for compliance with that requirement; and
- (c) the Minister is satisfied that that requirement is a requirement connected with the supply of water in, or with the sewerage or the disposal of the sewage of, a rural locality,

the power of the Minister under subsection (3) of that section shall extend to the making of an order transferring to himself functions of the body in default, notwithstanding that the body in default is such a body as is mentioned in paragraph (i) of that subsection. [1030]

Effect of section.—This section extends the powers of the Minister of Health under s. 322 of the Public Health Act, 1936, to enable him to transfer to himself functions of a council or joint board which is in default in relation to a requirement under this Act.

Rural locality.—See notes to s. 1, *ante*.

5. Duty of statutory water undertakers to accept guarantees from local authorities.—(1) The provisions of this section shall have effect in any case where the owners or occupiers of any premises in a rural locality can require statutory water undertakers to bring water to that locality if the aggregate amount of the water rates which will be payable annually in respect of those premises will not be less than a prescribed fraction of the cost to be incurred by the undertakers in complying with the requisition, and if the owners or occupiers of those premises agree to take a supply of water for a prescribed period. [1031]

(2) If, in any such case as aforesaid, the aggregate amount of the water rates which would be payable annually in respect of any premises in the locality is not sufficient to enable a valid requisition to be made by the owners and occupiers of those premises, the local authority of the district in which the locality is situate may undertake that, until the water rates paid for any year in respect of premises in that locality amount to a sum which would have enabled such a requisition to be made, the authority will make good to the undertakers in each year the difference between that sum and the amount of the water rates actually paid in respect of premises in that locality, and, thereupon, the undertakers shall lay any necessary mains and bring water to that locality. [1032]

(3) Any two or more local authorities may combine for the purposes of giving such an undertaking as aforesaid. [1033]

(4) If the undertakers, after tender to them of an undertaking which satisfies the preceding provisions of this section, do not before the expiration of three months lay the necessary mains and bring water to the locality in question, they shall, unless they show that the failure was due to unavoidable accident or other unavoidable cause, be liable on summary conviction to a fine not exceeding fifty pounds and to a further fine not exceeding five pounds for each day on which their default continues after conviction thereof. [1034]

(5) In this section the following expressions have the meanings hereby respectively assigned to them, that is to say :—

“local authority” means the council of a borough, urban district or rural district ;

“prescribed” means prescribed by the enactments regulating the undertaking in question ;

“statutory water undertakers” means any company, local authority, board, committee or other persons or person supplying water under any enactment ;

“enactment” means an enactment in an Act of Parliament whether public general, local or private and a provision in an order confirmed by or made under an Act of Parliament. [1035]

Object of section.—See para. 7 of Ministry of Health Circular 119/44, *post*.

Rural locality.—See notes to s. 1, *ante*.

Statutory water undertakers.—This term is defined in sub-s. (5), *supra*.

Prescribed.—See definition in sub-s. (5), *supra*.

Local authority.—This term is defined for the purposes of this section in sub-s. (5), *supra*.

6. Sewerage, sewage disposal and water supply expenses to be general expenses.—Notwithstanding anything in section three hundred and eight of the Public Health Act, 1936, all expenses incurred (whether before or after the passing of this Act) by a rural district council in connection with sewers or sewage disposal works or a supply of water shall, in so far as they fall to be defrayed out of rates made in respect of periods beginning after the end of March, nineteen hundred and forty-five, be general expenses. [1036]

Effect of section.—This section provides that after the end of March, 1945, all expenses incurred, whether before or after the passing of the Act, by a rural district council in connection with water supplies, sewerage and sewage disposal, shall be defrayed as general expenses, instead of special expenses with possibly a different rate for each parish in which the services are provided. See also para. 8 of Ministry of Health Circular 119/44, p. 388, *post*.

Public Health Act, s. 308.—Under s. 308, prior to April 1, 1945, a rural district council owning a water supply undertaking might charge a deficiency on the undertaking as special expenses on the contributory place or parish supplied, or, at the option of the council, it might be charged as general expenses over the whole of the area. See also the Schedule to the Act, which repeals part of that section.

7. Application to Scotland. [1037]

8. Short title, extent and repeals.—(1) This Act may be cited as the Rural Water Supplies and Sewerage Act, 1944. [1038]

(2) This Act shall not extend to Northern Ireland. [1039]

(3) The enactments mentioned in the Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule :

Provided that the repeal of provisions of the Public Health Act, 1936, shall not affect any expenses in so far as they are defrayed out of rates made in respect of periods ending before the first day of April, nineteen hundred and forty-five. [1040]

Section 8

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
24 & 25 Geo. 5, c. 7.	The Rural Water Supplies Act, 1934.	The whole Act except as respects undertakings thereunder given before the passing of this Act.
26 Geo. 5 & 1 Edw. 8, c. 49.	The Public Health Act, 1936.	In section twelve, the words "of works of sewerage, sewage disposal or water supply, or" and the word "other". In section three hundred and eight, paragraphs (a) and (b) of subsection (1), subsection (2) and, in subsection (3), the words "and, if those expenses were incurred in respect of separate undertakings for supplying water, those undertakings shall for the purposes of this Act and of the Local Government Act, 1933, be deemed to be one undertaking".

[1041]

ORDERS, CIRCULARS AND MEMORANDA

Circular 119/44

To *County Councils,*
Borough Councils,
Urban District Councils,
Rural District Councils,
Certain Joint Boards and
Joint Committees.

MINISTRY OF HEALTH,
WHITEHALL,
LONDON, S.W.1.

2nd September, 1944.

SIR,

*Post-war Reconstruction Programme**Rural Water Supplies and Sewerage*

1. I am directed by the Minister of Health to draw attention to the Rural Water Supplies and Sewerage Act, 1944, which forms part of the Government's general post-war reconstruction programme and places at the disposal of the Minister a sum of £15,000,000 to assist schemes executed after the war for the provision or improvement of water supply and for the provision of sewerage facilities in rural localities in England and Wales. The Act also amends Part IV of the Public Health Act, 1936, in some important respects to which reference is made below. [1042]

2. Owing to the impossibility of forecasting at the present time what may be the level of post-war costs or the financial position of individual local

authorities, the Minister will not be in a position to enter into undertakings to make contributions under the Act to individual local authorities until after the termination of the war in Europe. In the meantime, local authorities likely to be affected by the Act should take the opportunity of considering the requirements of their districts, in order that well-conceived plans may be ready when the grant arrangements can be put into operation. They should before framing their schemes take into account not only the domestic supply position but also as far as practicable the existing and prospective needs of agriculture and industry in their area ; a further reference to supplies for these latter purposes will be found in paragraph 9 below. The Minister will be prepared to assist local authorities by examining schemes submitted to him during this interim period and by indicating, after holding a local inquiry if necessary, whether or not their proposals for meeting the water supply or sewerage needs of their area are regarded as satisfactory from the technical standpoint. [1043]

3. Grants under the Act will normally take the form of lump sum payments towards expenses incurred on approved schemes of water supply or sewerage for rural *localities*, the effect being to reduce by the amount of the grant the capital sum to be borrowed by the local authority. Where an approved scheme involves periodical payments by the Council under a lease, hiring agreement or contract for the supply of water or for the disposal of sewerage, the Minister has power to make the grant payable to the Council in instalments within a limit of 20 years, but in these as in other cases the single lump sum method of payment is in the Minister's view preferable and in the absence of special reason to the contrary will be generally adopted. Grants towards the cost of sewerage and sewage disposal can be made only if the Minister is satisfied that the need for the works is due to anything done or proposed to be done, whether before or after the passing of the Act, to provide or increase piped water supplies in the localities in question. There will be no fixed rate of grant. As under the similar legislation of 1934, each case will be considered on merits, and the amount of grant will be determined by the Minister by reference to the net cost of the approved scheme and its relation to the financial position of the authority and any other relevant factors. [1044]

4. By section 2 of the Act, if the Minister undertakes to make a contribution towards the expenses of a local authority for either service, the County Council concerned are also required to contribute. The amount of the contribution is to be agreed between the local authority and the County Council, or is to be determined by the Minister if agreement is not reached. When in default of agreement the amount is determined by the Minister under the Section, it will not, except with the County Council's consent, exceed the amount which the Minister has undertaken to contribute.

County Councils have had power since 1929 to contribute towards the cost of water supply and sewerage, and many of them have made wide use of this power. The Minister hopes that they will continue to exercise it to the fullest extent and that they will not contribute less generously than under their normal arrangements hitherto. [1045]

5. The attention of local authorities is particularly directed to the terms of Section 2 (2) of the Act under which they are required to consult the County Council before submitting schemes to the Minister and to report to the Minister the observations, if any, of the County Council. In this way full opportunity will be afforded to the County Council of expressing their views on the scope of the schemes for their area, e.g. whether individual schemes for separate parishes or districts are advisable or whether there should preferably be a combined scheme covering all the areas in question or ranging even more widely. [1046]

6. Section 3 of the new Act amends Section 111 of the Public Health Act, 1936, by making it obligatory upon local authorities, where it is practicable at reasonable cost, to provide a supply of wholesome water in pipes to all rural localities in their district in which there are houses or schools, and to take the pipes affording the supplies to such points as will enable the houses or schools to be connected at reasonable cost. This obligation extends to joint boards constituted for the purpose of supplying water under the Public Health Act, 1875, or the Act of 1936. Any question whether the provision is practicable at reasonable cost or as to the points to which pipes shall be taken to enable houses and schools to be supplied has to be determined by the Minister at the request of the County Council or of ten or more local government electors in the district concerned.

This somewhat extended and more closely defined obligation which has been placed upon local authorities must be taken into account when new schemes are in preparation. While it may not always be practicable to bring piped supplies to every part of a district, and standpipe supplies may still be necessary in some areas until sewerage and sewage disposal can be provided, the main object of the scheme of grants is to secure that as far as possible water in pipes is made accessible to all or nearly all sizeable groups of houses, and schemes must be planned with these considerations in mind. The cost of connections between the houses and the mains and of the pipes inside the houses is, of course, not the responsibility of the local authority, and will not be eligible for grant under the Act. [1047]

7. Under section 116 (i) (iv) of the Public Health Act, 1936, a local authority may "contract with any local authority or other person for a supply of water and, in particular, avail themselves of the Supply of Water in Bulk Act, 1934". There will probably be many cases where a contract of this kind may provide the best means of meeting the local need. It may be found in other cases that the most satisfactory solution is for statutory water undertakers to extend their mains and for the Council in the exercise of the powers conferred upon them by section 123 of the Act of 1936 and Section 5 of the new Act to guarantee to make good to the undertakers any deficiency between the water rates paid by the owners and occupiers of the premises supplied and the annual statutory return on the cost of extending the main. Section 5 of the new Act extends section 123 of the Act of 1936 by enabling local authorities to combine for the purpose of giving such undertakings and by placing an obligation on statutory water undertakers to lay the necessary mains and bring water to a locality if such an undertaking is given by a local authority or by two or more authorities. [1048]

8. By Section 6 of the new Act all expenses incurred, whether before or after the passing of the Act, by a rural district council in connection with water supplies or with sewerage and sewage disposal will be defrayed after the end of March, 1945, as general expenses, the effect being that in future there will be a common general rate level for each service throughout the rural district instead of separate special rates over the parishes for which the services are provided. In essence the whole district becomes one area for the purpose of these services. In view of this new situation as regards such water expenses as are not borne by the consumers, local authorities will no doubt consider whether the various types of consumers' charges should not also be equalised throughout the district where this is not already the case. In any event, the Minister will require to be satisfied, when considering applications for grant under the Act, that reasonable charges will be made by the authority to domestic and other consumers generally throughout their district. The experience gained during the administration of the Rural Water Supplies Act, 1934, proved that consumers were quite willing to pay for the advantages of a piped supply. A charge of, for example,

12½ per cent. on the net annual value of a cottage assessed at £10 amounts to only 6d. for the whole needs of a household for a week. [1049]

9. As already indicated, the main object of the scheme of grants under the new Act is to facilitate the bringing of water mains to sizeable groups of houses. Extensions of mains or other works carried out with the primary object of affording supplies for agriculture or other industries or trades will not in themselves rank for grant under the Act, though in the case of supplies for agriculture any cost falling on the landowner or the farmer may rank for such grants as may be available from the Ministry of Agriculture. There is in many areas very great scope for extensions for these purposes. Apart from other considerations, it is pertinent to observe that the revenue obtained from agricultural and other trade supplies can in some cases be an important contributory factor to the success of schemes of rural water supply. It will frequently be found that schemes, the primary object of which is domestic supply to villages or hamlets, can be so planned without appreciable extra cost to the local authority as to meet agricultural and industrial needs as well or can help to meet such needs by taking a line of route which, while suitable for its main object, would also reduce the cost of special extensions to farms and industrial premises. Such possibilities should always be taken into account when plans are being prepared. The Minister of Agriculture is asking the County War Agricultural Executive Committees to survey the different localities in their counties from the point of view of farm water supplies and to make and maintain contact with the local authorities responsible for domestic water supply in order to ascertain the extent to which farms in need of new or improved water supplies in the interests of food production could be served by an extension of a public main after the war. The Committees will also have occasion to consult with local authorities in consequence of Section 5 of the Agriculture (Miscellaneous Provisions) Act, 1944. This Section does not in any way affect the obligations of the local authorities as regards the provision of mains for domestic supplies, but, by extending to farm houses and farm cottages in certain circumstances the existing arrangements of the Ministry of Agriculture for giving grants in aid of the provision of water to farm lands and buildings, it improves the prospect of isolated farms and cottages obtaining the benefits of a piped supply of water for domestic purposes in cases where by reason of their isolated position it might not be practicable in the ordinary course to supply them from the public main. [1050]

10. In many cases it will be found that the development of local water resources will be the best and most economical method of supply and in many—perhaps even more—sewerage can best be dealt with by small local schemes of sewerage and sewage disposal. In other cases, the right course may be to develop local water sources for the use of several parishes or even of two or more districts in combination, or again for a local authority to draw in bulk from the existing mains of neighbouring authorities. Similarly, joint schemes of sewerage and of sewage disposal and the possibility of utilising existing sewers and sewage disposal works by agreement with the Authority concerned should be taken into account when plans for the disposal of sewage are being prepared. [1051]

11. Officers of the Ministry will be ready to confer with representatives of the authorities and to advise them as to the general principles to be followed, but the responsibility for the preparation and completion of schemes remains with the local authority who should, where necessary, obtain competent technical advice from outside. The Minister hopes that County Councils will encourage and assist the local authorities in considering and determining the scope of comprehensive schemes of water supply and sewerage

when the circumstances indicate that such schemes are preferable to a more local solution. [1052]

12. The Minister proposes to keep in touch, through inspections and otherwise, with the execution of the schemes. [1053]

WEIGHTS AND MEASURES

CASES :—

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Brentnall and Cleland, Ltd. v. London County Council, [1944] 2 All E. R. 552 - 392

CASES

Weights and Measures—Coal—Weight of sack—Carman delivering sacks of less weight than that represented—Delivery delegated by coal merchants to agents—Mens rea—Whether agents under control of coal merchants—Weights and Measures Act, 1889 (c. 21), s. 29 (2)—Sale of Food (Weights and Measures) Act, 1926 (c. 63), s. 12 (2)—Criminal Law—Quasi-criminal offences—Mens rea—Responsibility for act of agent—Weights and Measures Act, 1889 (c. 21), s. 29 (2)—Sale of Food (Weights and Measures) Act, 1926 (c. 63), s. 12 (2).

In accordance with a suggestion of the Ministry of Fuel and Power for the purpose of fuel economy, B. & C., Ltd., coal merchants, appointed another firm, H. C., Ltd., as their agents for delivering coal sold by themselves (B. & C., Ltd.) to some of their customers. They exercised no supervision over H. C., Ltd., either in loading the carts or delivery. A carman was found to be carrying for delivery sacks of less weight than that represented in the delivery note signed by B. & C., Ltd. B. & C., Ltd., were prosecuted and convicted under the Weights and Measures Act, 1889, s. 29 (2). It was contended on their behalf that (i) a finding of *mens rea* was necessary for conviction; and (ii) they had a defence under the Sale of Food (Weights and Measures) Act, 1926, s. 12 (2), since the deficiency was due to the action of some person over whom they had to control :—

Held : (i) for a conviction under sect. 29 (2) of the 1889 Act, no finding of *mens rea* was necessary.

(ii) B. & C., Ltd., were not entitled to the protection given by sect. 12 (2) of the 1926 Act, since H. C., Ltd. had been appointed by them as their agents and were, therefore under their control. Moreover, since the person responsible for the deficiency was not specified, it could not be said that that person was not under their control.—BRENTNALL AND CLELAND, LTD. v. LONDON COUNTY COUNCIL, [1945] K. B. 115; [1944] 2 All E. R. 552; 61 T. L. R. 97, D. C. [1054]

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